27634

GOVERNMENT OF MADRAS.

MALABAR SPECIAL COMMISSION, 1881-82.

MALABAR LAND TENURES.

REPORT.

VOL. I.

DATA ENTERED

MADRAS:
PRINTED BY E. KEYS, AT THE GOVERNMENT PRESS.
1882.

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CORRIGENDA TO VOLUME I.

Page vii. Section II, Religious Institutions, No. 6. For "*Ūrāḷam*," read "*Ūrāḷan*."
" xiii. Foot-note. For "para. 228 of Appendix II," read "paras. 228, 246, 266, 267 of Appendix II, also paras. 254 to 262, Appendix I, also para. 70 of this report."
" xviii. Map of "Other grain crops." Insert "September to January" after "harvest."
" " Map of "Ponam (Hill rice and mixed crop)." Insert "September—October" after "harvest."
" " Map of "Mōḍan (Upland rice) and Eḷḷu (Gingelly oil seed)." Insert "August—September" after "Mōḍan harvest" and "December—January" after "Eḷḷu harvest."
" xxxiii, para. 126. Column 1 of the statement, after the word "intervals" in II(*a*) insert "(*Otti*)."
" " " " " after the word "intervals" in II(*b*) insert "(*quasi-Otti*)."
" " " " " after the word "intervals" in III(*a*) insert "(*quasi-Kāṇam*)."
" " " " " after the word "intervals" in III(*b*) insert "(*Kāṇam*)."
" " " " " after the word "periods" in IV insert "(*Paṇayam*)."
" " " " " after the word "more" in V(*a*) insert "(*Veṛumpāṭṭam*)."
" " " " " after the words "12 years" in V(*b*) insert "(*Veṛumpāṭṭam*)."
" " " " " after the word "will" in V(*c*) insert "(*Veṛumpāṭṭam*)."
" xxxv, para. 140. In column 1 of the statement, insert the words added as above in column 1 of the statement at para. 126, page xxxiii.
" xlii, para. 165, line 9. For "One other," read "On one other."
" lxxiii, " 303, last line. Mark the word "promise" with an asterisk and add the following foot-note: "The promise has since been kept, but only after the exercise of great pressure by the local authorities."
" lxxxiii, " 349, lines 8 and 9. Mark the words "improvements" and "property" with asterisks and add the following marginal note: "*N.B.*—Holdings are on a very small scale. See paras. 364, 365."
" " " 350, line 5. Mark the words "large share" with an asterisk and add the following marginal note: "See note above."
" xcv, para. 419. At the end of clause (2) insert "(*Otti*)."
" " " " " (3) " "(*quasi-Otti*)."
" " " " " (4) " "(*quasi-Kāṇam*)."
" " " " " (5) " "(*Kāṇam*)."
" " " " " (6) " "(*Paṇayam*)."
" " " " " (7) " "(*Veṛumpāṭṭam*)."
" " " " " (8) " "(*Veṛumpāṭṭam*)."
" " " " " (9) " "(*Veṛumpāṭṭam*)."
" " para. 420, line 2. For "para. 127," read "para. 126."
" cvii, " 482, line 15. For "*Tāḷvaṛis*," read "*Tāvaḷis*."
" " " " lines 20, 21 and 22. For "*Tāḷvaṛi*," read "*Tāvaḷi*."
" cviii, " 487, line 6. For "*Nyānyarātt*," read "*Nānjināḍu*."

CORRIGENDA TO VOLUME II.

Appendix IV, page 237. At the end of "II(*a*)" insert "(*Otti*)."
" " " "II(*b*)" " "(*quasi-Otti*)."
" " " "III(*a*)" " "(*quasi-Kāṇam*)."
" " " "III(*b*)" " "(*Kāṇam*)."
" " " "IV" " "(*Paṇayam*)."
" " " "V(*a*) to V(*c*) insert "(*Veṛumpāṭṭam*)."

CONFIDENTIAL.

MALABAR SPECIAL COMMISSIONER'S OFFICE,
OOTACAMUND, *June* 16*th*, 1882.

No. 210.

From

W. LOGAN, Esq.,
Special Commissioner,
Malabar,

To

C. G. MASTER, Esq.,
Chief Secretary to Government,
Ootacamund.

SIR,

I HAVE the honor to submit the report called for in G.O., Judicial Department, No. 281, dated 5th February 1881.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) W. LOGAN,
Special Commissioner, Malabar.

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REPORT ON MALABAR LAND TENURES.

CHAPTER I.

THE COMMISSION.

Nature of my duties.

1. The nature of my duties, as Special Commissioner, was thus defined in para. 3 of that Government Order :—

> " Mr. Logan, while using his own discretion as to other matters which call for investigation, will specially inquire into and report upon—
>
> " (1) the general question of the tenure of land and of tenant-right in Malabar, and the alleged insufficiency of compensation offered by the landlords and awarded for land improvements made by tenants ;
>
> " (2) the question of sites for mosques and burial grounds, with suggestions for a measure rendering the grant of such sites compulsory under certain conditions, if such a measure appears to him called for.
>
> He will further submit his views as to the best means for redressing any existing grievances, which are, in his opinion, well founded, and which, after due inquiry, he thinks ought to be redressed, and will suggest appropriate remedies."

Tours through the district.

2. The previous orders nominating me to these duties,—G.O., Judicial Department, No. 170, dated 25th January 1881,—reached me some days beforehand, and I made over charge of the district to Mr. McWatters on the 4th February. The census operations were, at this time, engaging the full attention of the Revenue Department, so it was not till the 18th March that I was able to move out into camp. The interval was, however, utilised in deciding on the best means of mooting the land question in the district generally (so as to prevent anything like agitation); in carrying that decision, which will be presently further alluded to, into effect; and in making personal inquiries in the immediate neighbourhood of Calicut, with a view to deciding on a form of report to illustrate the condition of the persons interested in the soil. My first move (as already reported to Government in my letter, No. 111, dated 9th August 1881) was to the neighbourhood (Mēlattūr, Paḷḷipuram and Irimbuḷi, on the Waḷḷuvanād Taluk and Ērnād Taluk boundaries), where the *Māppiḷḷa* outrage occurred in September 1880, and where another outrage had been shortly before (December 1880) reported as imminent. I remained in that neighbourhood till the 20th May. I then returned to Calicut and proceeded to North Malabar, where I remained till the 20th June. I next shifted camp to Pālghat, where I expected the people to be most backward in stating their grievances, and there I remained till the 14th August. I next visited Vāniamkuḷam and Cherupuḷḷaṣṣēri in the Waḷḷuvanād Taluk, and then proceeded south, through the Ponnāni Taluk, to Cochin, whence, after a flying visit to Trevandrum and the outlying settlements at Tangacherry and Anjengo, I returned to Calicut in the end of September, and set to work to prepare the materials gathered in my tours. My Assistant, Mr. C. Kunhi Kannan, continued, during October and November, the inquiries into individual cases, and, finally, joined me at Calicut about the middle of November. Appendix No. X contains a list of the places we visited and the time spent at each.

Measures adopted in communicating with the people to prevent agitation.

3. As already explained in my letter last above quoted, it seemed to me most necessary, for the peace of the country, that any pretext for agitation should be most carefully avoided. After much deliberation, therefore, I decided, in the first place, not to issue any proclamation defining the nature of the duties entrusted to me. This necessitated the adoption of different means for making known my mission to the great body of the people, and I eventually decided on issuing a *confidential* circular to all officers in the Civil Judicial Establishment and to the heads of villages, calling on them for information as to the customary rates given for tenants' improvements in the several

localities, and the rates adopted in executing decrees of Court, which, I found, were not always those prescribed by custom. This measure had the effect of making known in every village what one main object of my inquiry was, and I trusted to personal intercourse with the people in the different localities visited to gain any further information that I desired. A glance at the Index to the Petition Register (Appendix XXII) will show that my object was most fully gained, and a full statement of the people's grievances was laid before me.

The conflicting interests were not brought into sharper antagonism than was absolutely necessary.

4. There were not wanting signs that the *Māppilla* portion of the population would have readily seized any pretext for stopping the payment of rent, and, if such a movement had been once commenced, the example would have spread contagiously, and the decision of the pending questions would have become infinitely more difficult. Whenever, therefore, information reached me of the commencement of any such movement, I took immediate steps to have the parties brought together, and the tenants were warned of the very serious consequences that would ensue if they persisted in such a course. These measures had the desired effect, and, although the mere fact of such an inquiry having been undertaken must have had a disturbing influence on the minds of the parties concerned, still I believe that the inquiry, conducted in the manner described, effected the object in view without bringing the conflicting interests into sharper antagonism than was absolutely necessary.

Attitude of the people is expectant.

5. I invariably informed the people, whether *Janmis* or tenants, that I had no power to interfere on behalf of any who had grievances, but I would accept their petitions and forward them to Government, with whom would rest the decision as to whether any action was necessary or not. The attitude of the people may, therefore, be described as expectant, and there should be as little delay as possible in making known the decision of Government on the information I have gathered and the suggestions I have to offer.

General petitions discouraged, detailed grievances encouraged.

6. It seemed to me that the best mode of putting the information on record was to discourage, as much as possible, the presentation of petitions containing general allegations, and to encourage, on the other hand, all who had personal grievances to relate to come forward and detail them. The bulk, therefore, of the petitions received gave names of persons and places, dates of occurrences, and other full details. These details enabled me, in a large number of cases, to test the facts stated in a summary manner, and in the presence of all parties or of their agents; but in other cases records were called for and all the details fully examined. On the other hand, in ordinary cases of complaints of eviction, &c.,—also a large number,—no inquiry seemed to be required.

The inquiry made into details.

Private interviews afforded to all.

7. I need hardly state that the *Janmis*, equally with the tenants, were invariably invited to communicate with me, and that all who presented themselves had an opportunity afforded them of explaining matters to me in private. No one was pressed to give details which he might (for various reasons) not wish to have put on record, but all were invited to give the details, on which only true conclusions could be based. One result, of course, was that tenants, who had reason to be satisfied on the whole with the existing state of their relations with their landlords, did not come forward to give evidence, the giving of which might have endangered the good understanding between them. Another result was that the evidence came chiefly from those who had been brought to an open rupture with their landlords. This was advantageous in one way, inasmuch as existing good feeling was as little endangered as it possibly could have been; while, on the other hand, the facts stated had to be narrowly scrutinised, as exaggeration and falsehood were sure to be imported into statements thus obtained.

Some tenants held back.

Evidence chiefly from tenants who had broken off good relations with landlords.

Existing good feeling not disturbed.

But evidence had to be narrowly scrutinised.

Evidence of existing good relations between parties

8. It might perhaps appear that this mode of getting at the facts had the further disadvantage that it failed to draw out information as to the existing good relations which undoubtedly still, in many instances, prevail between landlords and tenants; but this was, to some

extent, counterbalanced by the mode adopted of getting statistical returns regarding actual cultivators from a number of typical estates. I took care that in every taluk one or more of those who had the reputation of being the best and most considerate landlords should be included in the number of the proprietors whose estates were to be examined. The Statistical Register (Appendix IV), therefore, contains what I consider to be fairly representative figures concerning the estates of all classes of landlords in the district,—good, bad, and indifferent.

tested by the Statistical Register.

9. In regard to the character of this return (Statistical Register, Appendix IV), I believe the figures given to be fairly reliable. In the case of the estates of Mr. Murdoch Brown of Anjarakandi, of the Kavalappāra Minor, and of the Cochin Sirkar estates in Walluvanād and Pālghat, the whole of the figures were subsequently submitted for criticism by the proprietors, and I believe that, in regard to them, the figures are as accurate as they can be made. As the conclusions to be drawn from the figures for these estates do not differ materially from those deducible from the returns of other estates, I think I am justified in concluding that this portion of the work was, on the whole, very successfully carried out by the Tahsildars and Deputy Tahsildars to whom the duty was entrusted.

Character of the Statistical Register figures fairly reliable.

10. Of the independent work done in the office, I need hardly speak. The Registers of all the Civil Courts in the district were examined from 1862 down to the end of 1880, and the results will be found tabulated in Appendix XI. Statistics of prices (Appendices VI to IX), of crime (Appendix XII), of agriculture (Appendix XIII), &c., also took up much time; and the compilation of the Statistical Register, embracing particulars regarding 14,034 different pieces of land, was only carried through with aid kindly afforded by the Acting Collector, who also lent aid to assist in the preparation in English of the Petition Register (Appendix XXII).

The office-work.

11. In Appendix I, will be found an attempt to trace the history of the Land Question from the earliest period down to the present time. I call it an attempt merely because the subject is such a very large and complex one, and because the materials available are, comparatively speaking, so scanty. I may here bring to the notice of Government the valuable assistance rendered to me by the gentlemen who so kindly took an interest in my inquiries, and who furnished me with the ancient deeds on which I had to rely for my facts in working out the Land Question History. Their names will be found appended in notes to the deeds themselves, and I would, in particular, bring to notice the name of the Dewan of the Cochin State as having been most indefatigable in his exertions to help me.

Attempt to trace the History of the Land Question, Appendix I.

12. In Appendix II, I have examined the principles of the Land Revenue assessments as bearing on the question of rent. This necessitated a laborious search through old reports, but the work done will, I feel sure, prove to be of permanent use in the ordinary administration of the district.

Examination of the principles of the Land Revenue assessments, Appendix II.

CHAPTER II.

ARRANGEMENT OF THE FACTS.

Scheme of this report.

13. I shall now proceed to set forth the facts brought to my notice in the course of this inquiry, and shall treat of them in the following order:—

(a) Historical matter .. .. Chapter III
(b) Agriculture and Agriculturists .. .. „ IV
(c) Proprietors and their Agents .. .. „ V
(d) Government and Official Action .. .. .. „ VI
(e) Class Dissensions, Crime, Outrages, &c. .. .. „ VII

Rough classification of the headings in the Petition Register.

Technical words cannot altogether be omitted, and are explained.

14. I have roughly arranged the headings of the Index to the Petition Register in accordance with the above order of the subjects. The following classification of the headings will, therefore, be of assistance as a guide in searching the Register of Petitions (Appendix XXII), and the short descriptive notices of each technical word will also help to the correct understanding of what follows. Technical words will be avoided as far as practicable, but it is impossible to find exact English equivalents for many of the phrases. Those which are not explained below will be found in the Glossary to Appendix I.

(a) Historical Matter—Chapter III.

1. *Chēramān Perumāl* (the reputed last Emperor of Kēralam, said to have become a convert to Muhammadanism).
2. History.
3. Tippu Sultan.

(b) Agriculture and Agriculturists—Chapter IV.

Section I.—Matters, Personal.

1. Dam.
2. Debt.
3. Failure of crops.
4. Family ruined.
5. House.
6. Individual grievances.
7. Maintenance.
8. No house to live in.
9. No other means of livelihood.
10. No other land.
11. Oppression of tenants.
12. Reckless payment of money.
13. Reclamation.
14. Sowing.

Section II.—Matters, Social.

1. Address.
2. Boycotting.
3. Caste rules.
4. Excommunication.
5. Fine.
6. Society.
7. Well.

Section III.—Tenures.

1. *Anubhavam* (a permanent tenure, generally for service).
2. Arbitration.
3. *Attipēr* (the water-contact-birthright—*See* Appendix I and in particular paras. 79, 96 to 114 and Chapter VI, Section VI).
4. Breach of contract to renew lease.
5. Buffalo.
6. *Chamayam* (improvements on a holding, such as buildings, walls, wells, &c).
7. Claim—unjust.
8. Combination of *Janmis* (proprietors) against tenants.
9. Contract.
10. Cow.
11. Demise.
12. Document.
13. Evictions—Special cases.
14. Extra payments.
15. Fine.
16. Gift.
17. Hardship of Eviction.
18. Illegal demands.
19. Improvements—
    (a) Under-valuation of—
    (b) No compensation for—
    (c) Not claimed owing to fraud.
    (d) Special cases of—

20. Interest.
21. *Janmam*, [birthright (*See* Attipēr), the modern proprietary right in the European sense].
22. *Janmi* (birthright-holder, the modern proprietor in the European sense).
23. *Kalippaṇam* (fees for dramatic performances).
24. *Kāṇam* (the ancient supervision or protection right—*See* Appendix I, and in particular paras. 80 and 112 to 115 and 143—146 and Chapter VI, Section VI, and Chapter VII, Sections III and IV—the modern mortgage or lease, or lease mortgage or what not).
25. *Kāṇakkāran* (the holder of *Kāṇam*, *q.v.*).
26. *Kāṇam* amount—See *Kāṇam*.
27. *Kudipāttappaṇam* (house fees).
28. *Kudiyānkūr* (tenant's fee).
29. *Kudivari* (house-tax to meet temple expenses).
30. *Kudiyirippu* (tenancy of a garden and dwelling site).
31. *Kulikkāṇam* (planting and improving tenure).
32. Lands in Malabar.
33. Lands let to 3rd parties.
34. Loan.
35. Local Fund Cess.
36. *Maraphalam* (garden-rent).
37. Market value.
38. *Mēlkāṇam* (a higher *Kāṇam*, *q.v.*).
39. *Michchāram* (superior's share of produce; rent in the modern sense).
40. Minor.
41. Mortgage.
42. *Otti* (pledge; mortgage with other liens on the land).
43. *Paṇayam* (simple pledge or mortgage).
44. Perpetual tenures.
45. Premium.
46. Produce.
47. *Putukāṇam* (additional money secured on a *Kāṇam* holding).
48. Rack-rent.
49. Renewals.
50. Rent.
51. Restoration to possession.
52. *Sāstra* (sacred writings of Hindus).
53. Subdivision of holding.
54. *Sub-kāṇakkāran* [the holder of a *Kāṇam* right (*q.v.*) under the proper *Kāṇakkāran*].
55. Subscription.
56. Surrender of land.
57. Tenants.
58. Threat.
59. Timber.
60. Trees.
61. *Veppu* (similar to *Otti*, *q.v.*).
62. *Verumkari* (a kind of *Kāṇam* tenancy).
63. *Verumpāttam* (tenancy-at-will, or from year to year or for a number of years).
64. *Vettukāṇam* (improvements to the soil, by conversion of uneven ground into rice-fields).
65. *Vilakkuvari* (lamp fee).
66. Waste.

Section IV.—General.

1. Effect of Special Commissioner's Inquiry.
2. False information.
3. General Allegations.
4. Her Majesty.

(c) PROPRIETORS AND THEIR AGENTS—CHAPTER V.

Section I.—Personal.

1. Āluvāncheri Tambrākkal.
2. Chirakkal Rāja.
3. Kadattanād Rāja.
4. Kāramvalli Kurup.
5. Kavalappāra Minor.
6. Kilakkē Kōvilakam.
7. Kolattūr Vāriyar.
8. Konduvetti Tangngal.
9. Kutiravaltat Nāyar.
10. Kutti Ēttan Tamburān.
11. Nārāyaṇa Mēnōn—Vallikāt.
12. Nilambūr Tirumulpād.
13. Orkattēri Assankutti Kēyi.
14. Padinynyārē Kōvilakam.
15. Putia Kōvilakam.
16. Punnattūr Rāja.
17. Pūvulli Nambūtiri.
18. Quilandy Tangal.
19. Vāsudēva Nambūtiri – Chēlamanna.
20. Vēmanchēri Nambūtiripād.
21. Walluvanād Rāja.
22. Zamorin Mahārāja Bahādūr.

Section II.—Religious Institutions.

1. *Brahmasvam* (endowed chattrams for Brāhmans).
2. *Dēvasvam* (Hindu temples).
3. Misappropriation of property.
4. Neglect of ceremonies.
5. Temple.
6. *Ūrālam* (temple trustee).

Section III.—Estate Management.

1. Coaxed out of land.
2. Collusion.
3. Frauds.
4. Improvements not claimed through fraud.

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5. *Kāryastan* (land agents).
6. Master of oppression.
7. *Nuzzar* (gifts by inferiors at interviews with superiors).
8. Oppression of tenants.
9. *Para* (a bushel measure varying in size throughout the district).
10. Railway Company.
11. Receipts.
12. Stamp.

(*d*) GOVERNMENT AND OFFICIAL ACTION—CHAPTER VI.

Section I.—Civil Courts.

1. Attachment of property.
2. Compound interest.
3. Court.
4. Court Fees.
5. Decree.
6. Execution.
7. Heavy Court expenses.
8. Protracted litigation.
9. Suit.
10. Summons.

Section II.—Officials.

1. *Amṣam Adhikāri* [Village (*Amṣam*) Magistrate and Headman].
2. *Amṣam Mēnōn* (Village Accountant).
3. District Munsif.
4. *Gumasta* (Office Clerk).
5. Sub-Judge.
6. Sub-Registrar.
7. *Vakeel* (Law Agent).

Section III.—Land Revenue.

1. Assessments.
2. *Cowles* (grants of remission of Land Revenue assessments for periods of years on condition of bringing land under cultivation).
3. *Punja* (dry crop assessments).

(*e*) CLASS DISSENSIONS, CRIME, &c.—CHAPTER VII.

Section I.—Classes.

1. Basel Evangelical Missionary.
2. Bishop Mar Coorilos (Syrian).
3. *Cheruman.*
4. *Māppillas.*
5. Mosque.
6. Muhammadanism.
7. *Musjid.*
8. *Nambūtiri.*
9. Syrian Christians.

Section II.—Crime.

1. Arson.
2. Criminal force.
3. Criminal prosecution.
4. Criminal trespass.
5. Dacoity.
6. Fabrication of documents.
7. Murder.
8. Oppression of tenants.
9. Outrages by Māppillas.
10. Theft.

Miscellaneous subjects.

15. The following other subjects were brought to my notice, and the petitions may be roughly classified under the two following heads :—

(*f*) MISCELLANEOUS MATTERS NOT INVESTIGATED AND NOT REQUIRING ANY NOTICE.

1. Abkarry.
2. *Amṣam* officials.
3. Avenue trees.
4. Benares.
5. Cross road.
6. Encroachment.
7. Escheat land.
8. Extinct families.
9. Family disputes.
10. License-tax.
11. *Mālikāna* (money allowances to families of Malabar Chieftains).
12. Municipal.
13. *Patta* (Bill showing the Land Revenue demand on a holding).
14. Salt.
15. *Sattram* (Rest-house).

(*g*) SUGGESTIONS—CHAPTER VIII.

Suggestions.

1. Cochin and Travancore.
2. Land Register necessary.
3. Lease.
4. *Marumakkatāyam* (inheritance through females, the ordinary Hindu law of inheritance in Malabar).
5. Sub-letting.
6. *Taravād** property (family property).
7. Waste.

* *Taravād* was anciently the family of authority (*pād*) in the *Nāyar* village (*Tara*); *Taravād* property now means simply the family property of no particular caste.

Castes and residences of petitioners.

16. Regarding the persons from whom these petitions (2,200 in number) came, and the taluks in which the petitioners reside, the following remarks deserve attention:—

The *Māppiḷḷas* were most forward in presenting petitions, but *Nāyars*, *Tīyars*, and Native Christians were all fairly represented. Thirty petitions came to me anonymously, and the remainder were presented by 4,021 individuals, of whom more than half were *Māppiḷḷas*. As to taluks, I consider a full expression of opinion came from Ērnād, Waḷḷuvanād, and Ponnāni; Kuṟumbranād and Pālghat were fairly represented; Chiṟakkal, Kōṭṭayam, Calicut and Cochin were but indifferently represented; and Wynād not at all.

There was no search for petitioners or grievances.

Hindus deterred by fears of caste punishments.

Māppiḷḷas were more independent.

17. In order to prevent anything like the semblance of agitation, I nowhere went in search of petitioners or of grievances. The petitioners who came, came voluntarily; but very many more held back for various reasons. Many (chiefly Hindus) waylaid me while riding, or walking, or driving, and gave me verbally long tales of real or fancied oppressions and wrongs, but comparatively very few of them accepted the invariable invitation to come next day to office and put the various facts on record. I believe that very few *Māppiḷḷas* were thus deterred from coming forward. They seemed, as a body, to act well together, and showed much independence. The Hindus, on the contrary, who had before their eyes the fear of caste censure, and fines, and excommunication, were slow to avail themselves of their opportunities.

Full expression of opinion from chief *Māppiḷḷa* Taluks.

18. It will be seen, then, that it was from the chief *Māppiḷḷa* Taluks (Ērnād, Waḷḷuvanād and Ponnāni) that the full expression of opinion came. I ought perhaps to have stayed longer in Chiṟakkal and Kōṭṭayam, where I know for certain a large portion of the population lives from hand to mouth; but it is doubtful if a longer stay there would have produced any better results than it did in Pālghat, where matters are even a great deal worse than they are in the North.

Analysis of the petitions.

19. The following is an analysis of the petitions:—

Classification of Petitions according to Taluk and Caste.

Taluk.	Number of Petitions.	Anonymous Petitions.	Petitioner's Caste.						Total.	Remarks.
			Brāhmans.	Nāyars.	Tīyars.	Cherumars.	Muhammadans.	Christians, &c.		
1. Chiṟakkal	3	30	..	19	..	..	6	..	25	According to the Petition Register, the last number in it is 2,199; but two petitions bore the same number as 1,103 (*a*) 1,103 (*b*).
2. Kōṭṭayam	28		..	1	19	..	8	..	28	
3. Kuṟumbranād ..	258		13	19	150	..	110	..	292	
4. Wynād	..		..	..	..	..	..	..	..	
5. Calicut	3		..	..	1	..	2	..	3	
6. Ērnād	418		6	16	23	..	767	..	812	
7. Waḷḷuvanād ..	432		7	379	30	..	479	..	895	
8. Pālghat	169		25	32	141	..	9	..	207	
9. Ponnāni	857		1	96	137	1	1,353	82	1,670	
10. Cochin	2		..	..	..	..	..	89	89	
Anonymous	30		..	..	..	..	..	..	..	
Total ..	2,200	30	52	562	501	1	2,734	171	4,021	

CHAPTER III.

HISTORICAL MATTER.

No reliable information from petitions on this subject.

20. The petitioners do not succeed in throwing much light on this part of the subject. The few accounts that are given are singularly vague and of the usual character of the semi-fabulous traditions of *Brāhman* or Muhammadan origin, which have hitherto done duty with the *Malayāḷis* for history.

Defectiveness of the materials available to trace the Land Question History.

21. In Appendix I, will be found an attempt to trace the history of the Land Tenures by the light of authentic documents and other papers collected from various sources. The analysis of dates and places given in para. 85 of that appendix shows, at a glance, how defective some of the materials are; but still the information to be gleaned from them is of an important character, and may serve to lay the foundation for future studies in this direction.

The four ancient deeds.

22. The history begins with the four ancient deeds, three of which were certainly executed in the 8th and beginning of the 9th centuries, A.D. These three deeds are the well-known deeds belonging to the Jews and Syrians of the Cochin and Travancore States. The fourth deed is a stone inscription found in Calicut.

Political organisation in ancient times

continued to a certain extent down to British accession.

23. The State in those days was organised as follows:—At the head of all, there was a *Perumāl*, or *Chakravarti*, that is, an Emperor. The Empire was divided into *Nāds*, and curiously enough the very same Chieftains, with whom the British came into contact when assuming charge of the country in the 18th century, were in those days (8th and 9th centuries, A.D.) the *Udayavar* (the same as the *Woddear*, &c., of Mysore and Coorg) of the *Nāds* into which the Empire was divided. The Zamorin, Walluvanād, Pālghat, and Travancore Rājas are mentioned in the Jews' deed (No. 1), while the same individuals, excepting the Pālghat Rāja, again appear in the Syrians' first deed (No. 2), and the Travancore Rāja appears for the third time in the second Syrian grant (No. 3).

Effect of the Jews' and Syrians' deeds was to raise their headmen to equality with the Chieftains of *Nāds*, and to constitute the Jews and Syrians into a protector guild.

24. I have attempted in Chapter II of Appendix I to explain the circumstances under which two of these grants (Nos. 1 and 2) were made. The effect of the grants was to raise the headmen of the Jewish and Syrian colonies to an equality with the Chieftains above named of the *Nāds*, and to confer on the corporate bodies of Jews and Syrians the protection right which was enjoyed by the Six Hundred *Nāyars* of the *Nāds*.

The protectors of the *Nād* were the *Nāyars* organised in Six Hundreds.

The protectors were also Supervisors, that is, *Kāṇakkār*.

This is a most important point.

25. This organisation of the *Nāyars* into Six Hundreds for the purposes of protection is a very important point in the consideration of the Land Tenures History, for the protection trust was, as evidenced by Deed No. 4, styled *Kānam*, which literally means supervision. And the great bulk of the lands in Malabar are to this day held on *Kānam*, which, however, has come to signify something very different from its original meaning, and which will be again specially alluded to further on in this report.

Light shed by Deed 3 on the origin of castes.

26. Deed No. 3 gives a further most interesting insight into the constitution of society in those days. The importance of this deed and the light it sheds on the origin of the caste system have, I think, hardly as yet been recognised.

27. The *Nāyars* were, as already related, constituted the protectors of the *Nād*. The Chieftain of the *Nād* was not absolute ruler, but if the inference to be drawn from the similar positions assigned to the headmen of the Jews and Syrians holds good, then he was simply the executive agent of the Six Hundreds' wishes and their representative in all public affairs.

The Chieftains of *Nāds* were the Executive Agents of the protector guilds, the Six Hundreds.

28. Beneath the protector guild or corporation came other corporate bodies, each with a greater or smaller share of self-government, but all having distinct functions to perform in the body politic. A certain class, the *Iḻuvar* or *Tīyar* (*Cingalese* or Islanders), were told off to plant up the waste lands and manage the gardens. Another class, the *Vellālar* (irrigators), were the cultivators of the wet lands. No other classes are mentioned in Deed 3, but there have survived, even to the present time, similar organisations of the handicraftsmen, artificers, &c., (astrologers, carpenters, goldsmiths, washermen, &c.,) known as the *Cherujanmakkār*, or small birthright holders.

Beneath the protectors came other corporate bodies, all having distinct functions in the body politic.

29. Functions thus acquired became birthrights, and the holders thereof were entitled for their services to certain portions of the produce of the lands within the limits of their birthrights. This seems to me to afford a very natural explanation of how caste arose.

Functions thus acquired became birthrights, hence caste distinctions.

30. Once caste was thoroughly organised, custom became the law of the land, and I have dwelt on the importance of this point in Chapter I of Appendix I. The country evidently attained a high degree of civilisation under this system, if we may credit the account given of it by Sheikh Ibn Batuta in the twelfth century, A.D.

Under a caste system custom was the law of the land, which attained a high degree of civilisation.

31. No explanation other than that custom became king paramount seems to me to account satisfactorily for the absence of any upheaval of society, when the last *Perumāl* or Emperor disappeared in the mysterious way described by the Muhammadans, who say he became a convert to their religion.

Impossible to account in any other way for the absence of upheaval of society when the last Emperor disappeared.

32. Quite recently it was brought to my notice that this last *Perumāl* or Emperor's tomb is still in existence on the Arabian Coast at Zafhār, and the dates inscribed thereon were, I was informed by a resident of the place, as follows—"Arrived at Zafhār, A.H. 212. Died there A.H. 216." These dates require verification, but if true, then it becomes almost certain that this is the tomb of *Chēramān Perumāl*, whose name is in the mouth of every person on the Coast, and who, it is related, not only became a convert to Islam himself, but was the means of introducing it into the country from Quilon in Travancore to Barkur in Canara. Moreover, it further becomes highly probable that the date of his departure for Arabia was, as was very natural, fixed on for the commencement of the *Kollam* Era of the West Coast, because A.H. 212 corresponds with A.D. 827, and it is related in the *Tahafat-ul-Mujahidin* that the King first landed at Shahr, and remained there a considerable time before moving on to Zafhār where he died. This story accounts well enough for the interval which elapsed between the commencement of the *Kollam* Era 824, A.D., and the King's arrival at Zafhār in 827, A.D.

Recent discovery which may lead to the fixing of the date when this occurred.

Was the last Perumāl's departure for Arabia the event which fixed the commencement of the Kollam Era?

33. But however this may be, it is certain that between the date of the 2nd Syrian deed (No. 3 in Enclosure 2 to Appendix I) generally put about the beginning of the ninth century, A.D., and the arrival of the Portuguese in 1498, A.D., the Emperor or *Perumāl* had disappeared, and the Chieftains of *Nāds* were then reigning, almost unchanged as to limits, in the *Nāds* which they held under the Emperor in the eighth and ninth centuries. The only considerable change that had taken place meanwhile was that a considerable part of the country formerly held by the Walluvanād Rāja had been annexed by the Zamorin, who had encouraged Muhammadans to settle in his territory just as the Emperors had formerly encouraged Jews and Syrians. It was through the wealth and

Between the beginning of the 9th century, A.D., and the arrival of the Portuguese (A.D. 1498), the *Perumāls* disappeared and the Chieftains of *Nāds* were reigning almost unchanged as to limits.

influence of the Muhammadans that the Zamorin had accomplished the partial dismemberment of Walluvanād, and also perhaps of other small States.

With the advent of the Portuguese fresh foreign influences brought to bear on the country with the effect of weakening the intrinsically weak local Governments.

34. With the advent of the Portuguese in A.D. 1498 fresh foreign influences began to bear on the country at large. One main effect was that the Zamorin's power became impaired by the ruin of the Muhammadan trade with the Red Sea and the Persian Gulf. The Portuguese likewise did all in their power to awaken dissensions in the country by backing up the Cochin and *Kōlattiri* Rājas against the Zamorin. Protracted and expensive wars were the result, and all this had the effect of still further weakening the intrinsically weak local Governments.

But there was no revolution of society except in Travancore up to the time of the Mysorean occupation (A.D. 1766).

35. But there is no trace of any upheaval of society, and when the Mysoreans invaded the country in 1765-66, A.D., the *status* was generally that which had prevailed since the ninth century, A.D., always excepting Travancore, where a revolution had quite recently (1729—1758) taken place as described in Chapter I of Appendix I.

No marked permanent change up to the time of the British occupation (A.D. 1792).

36. The Mysoreans did not remain long enough to effect any marked permanent change, and when the Honorable East-India Company assumed the Government in A.D. 1792, the constitution of society was practically the same as it had been for centuries.

Janmam hitherto assumed to be equivalent to *dominium* of the soil.

37. It has been usually hitherto assumed that the *Janmam* right in the soil of Malabar was as perfectly defined and as absolute as the *dominium* of European lawyers.

This idea is erroneous and due to a cursory view of *Janmam* deeds.

38. This assumption, I have reason to think, however, is founded on a very cursory view of the deeds by which titles to *Janmam* property were bought and sold, and it may be as well here to recapitulate the arguments which will be found in detail in Appendix I.

The deeds express with exaggerated force the completeness of the relinquishment and acquisition of the rights conveyed.

39. It may be freely admitted at the outset that some of the deeds express with exaggerated force the completeness of the relinquishment and of the acquisition of the rights conveyed. Buried treasure and the vessels containing it, roots and stumps of *Nux Vomica*, and thorns and other worthless things are mentioned, the boundaries are clearly defined, and at first sight it looks as if the soil and all on, above, and below it from the highest point of heaven to the lowest depth of the earth were the objects conveyed, and that the parties had purposely employed words to show how complete the *dominium* was that was thus being bought and sold.

But the right conveyed was the water-contact-birthright.

40. But the right in the soil that was thus conveyed was the *Janmam* (birthright),—to use the modern Sanskrit word,—or the *Nīr-atti-pēru* (water-contact-birthright) to use the more ancient Dravidian phrase.

This birthright was a very ancient one.

41. The Syrians got their first grant (Deed No. 2) "by water" and the Syrian colony, an offshoot of the main settlement, likewise acquired (Deed No. 3) their bit of territory by the ceremony of "pouring water-drops." The water-contact-birthright is therefore a very ancient right in the soil, and it was apparently at first in the sole gift of the *Perumāl* or Emperor (Clause K of Deed No. 3).

This birthright did not always convey an *allodium*.

42. It is quite certain from the language of Deed No. 3 that the ancient water-contact-birthright deeds did not always convey a free-hold,—an *Allodium*,—for in this case shares of the produce were reserved for the *Kōn* or Emperor and for the *Pati* or over-lords.

Besides the water-contact-birthright other citizens had birthrights in the land.

43. And, again, it is equally certain that in this case of Deed No. 3, there existed beneath the water-contact-birthright holders several classes of citizens who had, equally with the water-contact-birthright holders, rights and privileges connected with the land.

These subordinate birthrights are specifically alluded to only in Deed No. 3, Appendix I.

44. There is no mention of such subordinate rights and privileges in Deed No. 2, but then there was probably no occasion to mention them; whereas in Deed No. 3 certain rights in the soil had been previously held by the grantees, and the grantor to make his gift to the church complete had to buy out these rights; and it is incidentally only when alluding to this circumstance that a glimpse is obtained of the subordinate workers, and of the functions entrusted to them.

The subordinate classes had rights as well as duties to perform in respect of the soil, and there are still traces of this.

45. These functions carried with them rights as well as entailed duties on the holders, and I have illustrated by recent facts, in my own experience, that underneath all the load of modern Court-made law there lurks still in the ideas of the common people that they have duties to perform in respect of the soil, as well as rights in it to uphold.

The classes noticed in Deed No. 3 have still their representatives.

46. In fact, much of the soil of Malabar is still held by classes, who almost exactly represent the classes brought to notice in the Syrian Deed No. 3. The modern *Janmi* takes the place of the water-contact-birthright holders, the *Kāṇakkāran* of the holder of the sharing staff, and beneath them are the *Iḷuvars* or *Tīyars* (*Cingalese* or Islanders), whose duty now, as then, was to be "the planters who planted," and the irrigators whose duty now, as then, was to be "the setters who set," referring probably to the transplantation of young rice-plants.

If no mention is made in water-contact-birthright deeds of these subordinate birthright holders, it does not follow they do not exist.

Mr. Græme's Evidence, A.D. 1822.

47. Although, therefore, it happens that in water-contact-birthright deeds no mention is made of the rights and duties of the other birthright holders, it does not at all follow that such birthrights in the soil do not exist. Mr. Græme, the Special Commissioner in Malabar, in 1818—1822, while holding, what I believe to have been, mistaken * views as to ownership in the soil, specifically stated that the shares of produce due as "fees to the carpenters, smiths, and other petty proprietors, denominated *Cherujanma-kārar*" (*i.e.*, small birthright holders) were, along with other items, never taken into consideration in any estimate of the gross produce of the land. (Mr. Græme's report, para. 1563.) The local limits within which these "small birthright holders" could claim their shares of produce were as distinctly laid down as were those within which the "water-contact-birthright" could be exercised. The shares of produce due within those well-defined local limits to those persons respectively alone constituted their property in the soil, and it is altogether a mistake to suppose that the water-contact-birthright holders' right amounted to *dominium* in those limits.

Mr. Farmer's evidence at the time of the British occupation, A.D. 1792, as to how the produce of the land was divided.

48. Further back still, at the very commencement of British rule in Malabar, Mr. Farmer, one of the Bengal and Bombay Joint Commissioners, was informed, when making inquiries on the subject of land tenures, that the "produce" was divided *in equal shares* between—

(*a*) the farmer, by whom Mr. Farmer meant the *Kāṇakkāran*, *i.e.*, the protector;
(*b*) the actual cultivators; and,
(*c*) the *Janmi*, whom Mr. Farmer assumed to be the landlord.

(*See* Voucher 39 to the Joint Commissioners' report of 25th February 1793.)

Such a division of the produce is quite in accordance with the evidence contained in Deed No. 3.

49. Such a division of the produce was quite in accordance with what Deed No. 3, in Appendix I, shows to have been the ancient practice. This practice had hardened into birthright, that is, into caste custom, and had thus, strange as it may seem, been perpetuated through 1000 years.

The *Janmi* was entitled to his customary share of the produce, but to no more.

50. The conclusion I have arrived at, therefore, is that at the commencement of British rule the *Janmi* was entitled to no more than his proper share, ($\frac{1}{3}$) one-third of the net produce of the soil, and even that ($\frac{1}{3}$) one-third was liable to diminution if he had received advances

* *See* paras. 228 [246-266-267] of Appendix II. also paras 257 & 262 - Appendix I, also para 70 of this report. —

from his *Kānakkār* or protectors who, of course, were entitled to the interest of their money out of the *Janmi's* share.

But the *Janmi* had also various ranks and dignities.

51. In addition to this share of the produce of the soil, the *Janmi* was also entitled to various ranks and dignities of sorts. He was sometimes commandant of the militia of the *Dēsam* (hamlet); he was also generally, perhaps invariably at first, a man of authority in the protector guild of *Nāyars*; he was often the trustee of the village temples.

Sir Thomas Munro's evidence on this point, A.D. 1817.

52. Sir Thomas Munro paid a visit to Malabar in 1817, and wrote a very interesting report * on the subject of village organisation. He did not trust to reports and other matter on record, but he gathered his information orally from the best informed of the natives. His stay, however, unfortunately extended only to one month, and he had other weighty matters on hand.

Sir Thomas Munro described the *Janmi* as the holder of an office or dignity.

53. His report is important in this respect that it shows conclusively that the idea of a *Janmi* in those days was different to what it is now. Sir Thomas Munro evidently viewed the *Janmi* as the holder of an office or dignity, which office or dignity remained to him, although he might have parted with all his landed property. It is well known, and has always been recognised, that the price of the empty name of *Janmi* was estimated as worth exactly half of the price at which the productiveness of the land to the *Janmi* was valued. The usual (but a very unsatisfactory) explanation of this was that the name was worth so much, because of its almost sacred character. The real fact, no doubt, however was that, as Sir Thomas Munro pointed out, the *Janmi* was as much an office-holder as a landlord. He might have parted with all interest in the soil, even to the extent of not retaining the power to redeem it, and yet, until the magic "water-contact" was effected, he was still the *Janmi* of the whole of it; he was still free, in short, to exercise authority over the people living on his "birthright" holding. This authority was of value, because those wishing to celebrate various domestic or public ceremonies had to seek his consent,—a consent that was always sought with presents in hand.

His birthright gave him authority over the persons residing in his *Janmam* limits, and this was what was most prized in the position.

What were the privileges attaching to a water-contact-birthright?

They were originally 72 in number, and some of them were of a sumptuary character.

There were also other specific privileges.

54. In the Jews' deed (No. 1 in Appendix I) and in the second Syrian deed (No. 3), the privileges attaching to a "birthright" holder of land are stated to be 72 in number; what these all were is unfortunately not to be gathered from either of the deeds, but one or two are mentioned in Clause (*k*) of Deed No. 3, and these seem to have been of a sumptuary character. These prerogatives of the *Janmi* were no doubt what was most prized in his position. He was, in short, a man of rank and authority on his land, sometimes possessing more, sometimes fewer specific privileges over and above the seventy-two *Viduper* as they were called, that is, "birthrights relinquished" or conveyed to the *Janmi*.

These privileges were originally in the sole gift of the *Perumāl* or Emperor, as the Fountain of Honor.

No evidence that the Chieftains of *Nāds* usurped this function.

55. Moreover, as already above stated, the water-contact-birthright seems to have been originally in the sole gift of the *Perumāl* or Emperor. The last Emperor became a convert to Muhammadanism and disappeared, as I have reason to believe, in the first-half of the 9th century, A.D. There is no evidence to show that the Chieftains of *Nāds*, who remained, as already also pointed out, almost without change of limits in their respective *Nāds* through all the succeeding centuries, ever arrogated to themselves the privilege to create water-contact-birthright holdings,—a privilege which had belonged to their Emperor alone, who was seemingly the "Fountain of Honor," as English lawyers would express it. The Chieftains of *Nāds* could sell their own privileges no doubt (Deed No. 15, Appendix I), but this is a very different thing to creating them.

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* Revenue Selections, Volume I, p. 842.

For an abstract of the portions of it dealing with the questions now in hand, *see* Enclosure 1 to Appendix I.

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56. It is probable, therefore, that the bulk of the land remained for several centuries directly under the protector guild of *Nāyars* organised into *Taras* (*Teru* and *Teruvu* = village) and *Nāds*, and without any special water-contact-birthright having accrued to it. It seems doubtful, indeed, (*see* paras. 170 to 172 and 210 of Appendix I), if either the water-contact-birthright or *Janmam* were known in *Kōlattunād* (Chirakkal Taluk) until after the British accession.

The bulk of the land therefore probably remained for centuries directly under the protector guild, the *Kāṇakkār*.

57. The evidence as to what subsequently became of the bulk of the land under such circumstances is very far from being complete; but there is some evidence that, as the central power of the Chieftains of *Nāds* grew weaker under the intestine struggles which followed the Portuguese advent in 1498, A.D., the circle of *Taras*, as it was styled in some places, or the circle of assembly, as it was styled in others, was called in to legalise the exclusive transfer to individuals of portions of the common lands, and individual energy and character came more and more into play.

What became of the land under such circumstances?

Some evidence that as the power of the Chieftains of *Nāds* grew weaker in consequence of intestine wars, the protector guild grew stronger, and individual character came more and more into play.

58. There is some evidence, as one might expect to find, of the breaking up of the communal rights of the protectors of each *Tara* in favor of individual families, and this, there can be no doubt, became more and more common in the 17th and 18th centuries. It was, I think, about the end of the 17th century that the word *Janmam* (a Sanskrit word, signifying simply birth and birthright) came into use sparingly at first and only in *Nambūtiri Brāhman* deeds. It seems in the latter half of the 18th century to have acquired still greater currency, and to have been adopted by the other superior Hindu castes.

There is some evidence that the communal rights of the protector guild were broken up in favor of individuals.

59. Every *Nāyar*, then, of more than average ability seems to have about this time founded a *Janmam* or pseudo-water-contact-birthright family, and it was with these families that the British authorities came into contact in 1792; but the great body of *Nāyars* still remained the protectors and supervisors of the *Tara* and of the *Nād*, the *Kāṇakkār* in short, and flocked to this or to that *Taravād* (*Tarapād* = village authority) family according as their interests and inclinations dictated. To this day a *Kāṇakkāran* considers it a perfectly legitimate manœuvre on his part to transfer himself and the lands under him to any *Janmi*, who, he thinks, is an abler man than the one under whom he holds. There is some evidence of this in the Petition* Register, and it is such a well-known device that it has now become the settled law of the Courts that a *Kāṇakkāran* denying his *Janmi's* title operates the forfeiture of his own. (*See* Glossary to Appendix I under "*Kāṇam.*")

Every *Nāyar* of ability founded a *Janmam* or pseudo-water-contact-birthright family.

But the great body of *Nāyars* still remained the protectors or supervisors of the *Nād*, the *Kāṇakkār* in short.

60. It was the interest of each *Janmi* under such circumstances to treat his *Kāṇakkār* or protectors with much consideration, inasmuch as it was on the number of *Kāṇakkār* whom he could attract to his personal service that his power and influence depended. Hence, as observed† by Mr. Rickards, the Second Principal Collector, in the early years of the British rule, a *Kāṇakkāran* had practically a permanent tenure of his holding.

It was the interest of each *Janmi* to treat his *Kāṇakkār* with much consideration.

61. As matter of theory, no *Kāṇakkāran* belonging to the general guild of protectors of his *Nād* had any particular bit of land assigned to him permanently for protection, unless he had been constituted, as sometimes happened, a hereditary protector by a water-contact-birthright holder. Theoretically, therefore, he was liable to be turned adrift by his Janmi at each succession when the relations between them were necessarily renewed; but practically this seems to have been very rarely the case, as the odium of having got

The *Kāṇakkāran's* right was a communal right.

* Nos. 77, 301, 442, 480, 880, 1263.

† The passage alluded to is quoted in full at para. 108.

rid even of an obnoxious *Kāṇakkāran* must have told in those days very detrimentally to the *Janmi's* interests on those who remained.

The three classes interested in the soil at the time of the British accession, A.D. 1792.

62. It was then with these—

(1) water-contact-birthright holders or *Janmis*;
(2) *Kāṇakkār* or protectors; and,
(3) actual cultivators, having duties to perform to the land, and correlative rights;

that the British authorities came into contact in 1792.

These three classes divided the net produce of the soil in equal shares among themselves.

What is meant by "net produce."

63. These three classes were in the habit of dividing (as already observed in para. 48 above) the net produce of the soil equally among themselves,—one-third to each,—and by net produce is meant the share left over after providing for all other "birthright" holders, in the soil, such as, the village carpenter, goldsmith, &c., and after providing for the customary shares paid to the laborers who helped to gather, prepare and store the produce.

The arrangements made by the Mysoreans for assessing a Land Revenue necessarily interfered with this customary distribution.

They took as revenue a share of the pāṭṭam, leaving the cultivator's share intact.

64. The arrangements made by the Muhammadan (Mysorean) Government for assessing a Land Revenue necessarily interfered with these ancient customary arrangements. The Muhammadans everywhere took as Land Revenue a certain portion more or less of the *pāṭṭam*, (*i.e.*, of the *pād* = authority's share of the produce). This portion encroached on the customary shares of the *Janmi* and of the *Kāṇakkāran* and nominally left the cultivator's share intact.

The Māppiḷḷas interviewed Mr. Jonathan Duncan, and told him the Government assessements had "absorbed" the Janmi's share.

This was erroneously viewed as a claim on their part to be considered Janmis.

65. Here it will be as well to notice that the *Māppiḷḷas*, at an interview with Mr. Jonathan Duncan (one of the Joint Commissioners in 1792-93), expressly told him that the *Janmi's* interest in the produce had been "absorbed" by the Government (*see* Appendix I, Chapter VII, Section III, paras. 227-28), and that the *Janmis* were consequently not entitled "of right" to any portion of the produce. This was (erroneously) viewed as a claim to the *Janmam* right on the part of the *Māppiḷḷas* themselves. The *Māppiḷḷas* still assert the same thing.*

During the Muhammadan occupation, the Māppiḷḷas contented themselves with acquiring extensive Kāṇam rights;

but they nowhere extorted the Janmam rights.

66. What happened during the Muhammadan occupation may be gathered from the third Principal Collector's letter to the Board of Revenue, under date the 12th September 1815, para. 49. The *Māppiḷḷas* did not usurp the *Janmis'* rights at the time of the Hindu flight into Travancore. All they did was to take advantage of their Hindu neighbours when they were anxious to realise as much ready money as possible from their lands. The *Māppiḷḷas* advanced *small* sums of money and got deeds assigning to them *large* rights on *Kāṇam* tenure, but they nowhere extorted the *Janmam* right from any of the *Janmis* even at such a time.

Reason for this the Māppiḷḷas were not entitled to Janmam privileges.

If Janmam had at this time meant dominium and Kāṇam a mere twelve-year lease, would the Māppiḷḷas have made such indifferent bargains?

67. The reason of this is plain, if it is remembered that the *Māppiḷḷas*, as a caste, were not entitled to the water-contact-birthright, or *Janmam*. Had *Janmam* meant in those days, as it does now, the *dominium* of the soil, and had *Kāṇam* meant a mere lease liable to cancelment every twelve years as it does now, the *Māppiḷḷas*, it may be shrewdly guessed, would not have made such indifferent bargains. But the fact was that a *Kāṇakkāran* had in the old days as stable a right in his *Kāṇam* holding as a *Janmi* had in his. Down to the present day he can divide and sell his *Kāṇam* holding, but the *Janmi's* power of ouster every twelfth year has almost completely neutralised the value of this privilege.

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* Nos. 547, 671, 882, 1088, 1089, 1094, 1672.

68. Some eleven years after the British accession (29th June 1803), the second of the Principal Collectors, Mr. Rickards, took a great deal of pains (*see* Appendix III) to ascertain what proportioning of the produce would be most agreeable to the *Janmis*. He unfortunately did not consult the *Kāṇakkār* also, and the natural consequence was that in the arrangements made at this time the right of the *Kāṇakkār* to any share in the produce was quietly ignored; their position, so far as I can gather from the papers put on record at the time, does not seem to have received any consideration; if it did crop up, it must have been dismissed with the reflection that as mortgagees,—the idea entertained by the British authorities at this time of their position,*—they were quite able enough to look after their own money investments. The alacrity with which the *Janmis* signed the paper (No. 17 in Appendix III), and which evidently surprised Mr. Rickards himself, is intelligible only when it is remembered that the arrangements agreed upon left them nearly as well off as ever in regard to their shares, whilst it shut out the *Kāṇakkār* from any recognised participation in the produce of the soil. The *Janmis* had no doubt realised by this time, that, backed by the authority of the British Government, they could safely dispense with the power and influence which, in former times, had accrued to them by the numbers of their personal adherents.

Mr. Rickards' plan for assessing the Land Revenue on equitable principles, A.D. 1803.

The *Kāṇakkār* were left out in the cold.

Probable reason for this.

And explanation of why the *Janmis* so readily agreed to Mr. Rickards' proposals.

69. This did not matter much at first, because the Land Revenue assessments were so heavy at the time, that but little of the produce was left over after satisfying the Government demands, and the *Kāṇakkār*, being in immediate possession and frequently holding heavy money claims on the *Janmis*' share of the produce, were able to make their own terms with the *Janmis*. This continued even down to the time of Mr. Græme's inquiry, 1818—1822.

This did not at first matter very much, as the *Kāṇakkār* were in immediate possession of the land on favorable terms, and this continued down to A.D. 1822.

70. What has happened since may be stated in very few words. The Bombay authorities first, and the Madras authorities afterwards, recognised the *Janmi* as absolute owner of his holding, and therefore free to take as big a share of the produce of the soil as he could screw out of the classes beneath him. The crisis, for various reasons, did not arise at once, but as soon as the old generation with its inherited ideas of protection and trusts had died down, and as soon as prices of produce began to rise and hold out tempting baits to cupidity, then the crisis became inevitable. The signal to join issue was an ill-advised inquiry recommended by Mr. Græme into actual "rents" as the basis for settling a Revenue assessment on wet lands. This began in 1823, and continued on in one shape or another till 1843. It had the effect of setting all classes by the ears, and the *Māppiḷḷa* tenants being more independent than the Hindu tenants, organised the outrages which have since given them such an evil name, and which have brought so much misery on the country generally.

The Bombay authorities first, and afterwards the Madras authorities, viewed the *Janmi* as the absolute owner of his land, and as such, free to take as big a share of the produce as he could extract.

The crisis came when prices of produce rose and held out tempting baits to cupidity.

The signal to join issue was Mr. Græme's proposal to take actual "rents" as the basis for settling the wet land assessments.

The *Māppiḷḷas* to save themselves organised the outrages.

71. Mr. Strange was specially commissioned to deal with these outrages in 1852. His view was that they were the result of pure fanaticism, fanned by the ambition of two Arab priests. He, therefore, suggested repressive measures, which, it was thought, would be only temporarily necessary; but experience has proved the contrary, and Mr. Strange's repressive acts are quite as much wanted now as they were thirty years ago.

Mr. Strange's Special Commission to deal with the outrages, A.D. 1852.

His repressive measures still as much required now as they were thirty years ago.

---

* It is as well to note that there was some color for this, because the *Janmis* had raised large sums from their *Kāṇakkār*, particularly from the *Māppiḷḷas*, when the flight took place to Travancore consequent on Tippu's fanatical persecutions. These loans were not fully paid off for many years.

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The British authorities have all along mistaken the *Janmis'* real position.

His interest in the soil was a distinctly limited interest.

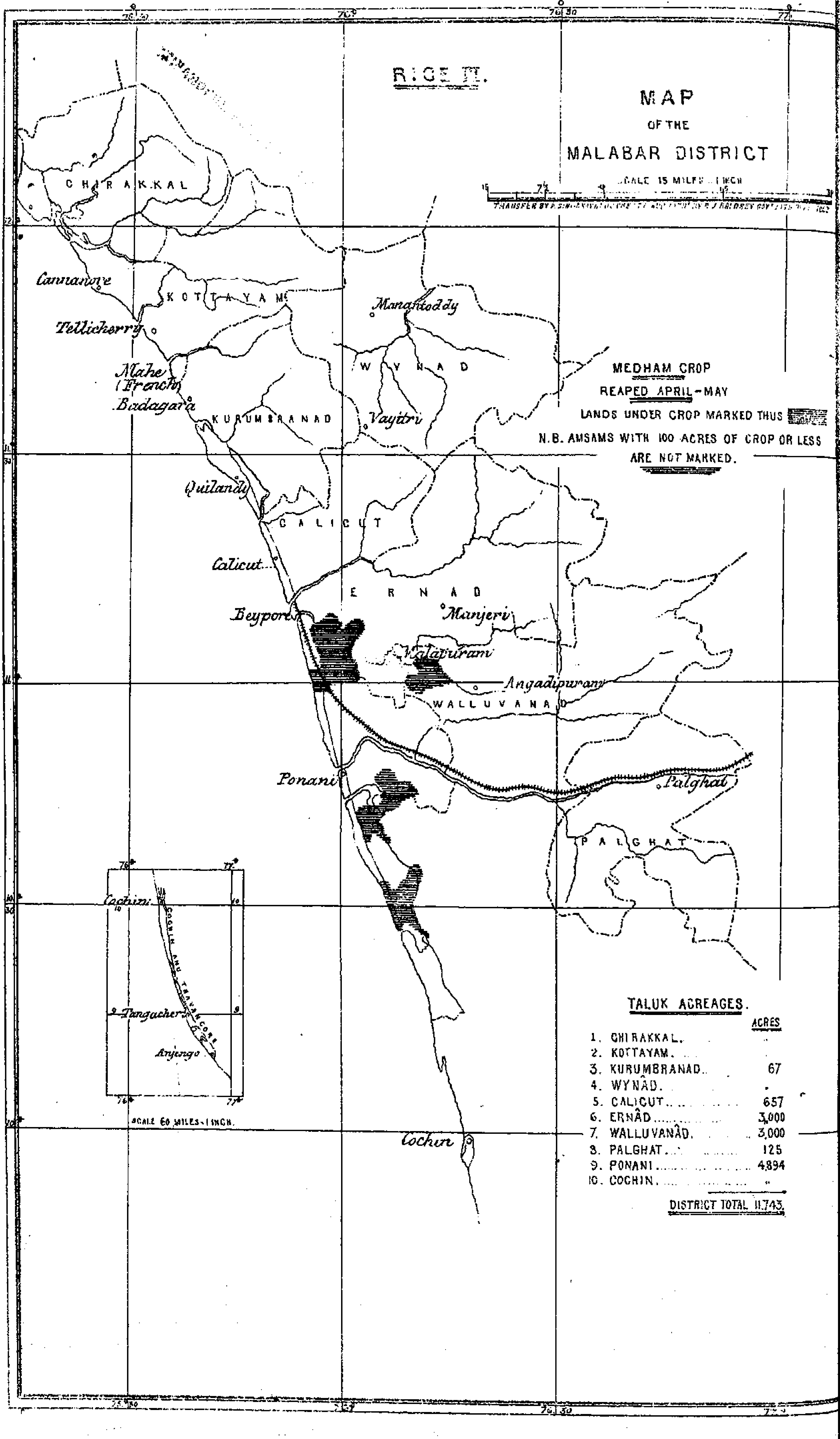
And should have been defined before wholesale freedom of contract was let loose over the land.

72. In conclusion, it may be observed that the British authorities and British Courts have never properly realised the true original state of the relations subsisting between *Janmis* and the other classes interested in the soil. The *Janmis'* interest in the produce of the land was a distinctly limited interest, as were also those of the other classes. Their interests, regulated by ancient custom, should have been clearly ascertained and precisely defined before wholesale freedom of contract was let loose over the land. The *Janmis* have profited too much, the other classes too little, by the British rule of personal freedom to follow one's legitimate inclinations.

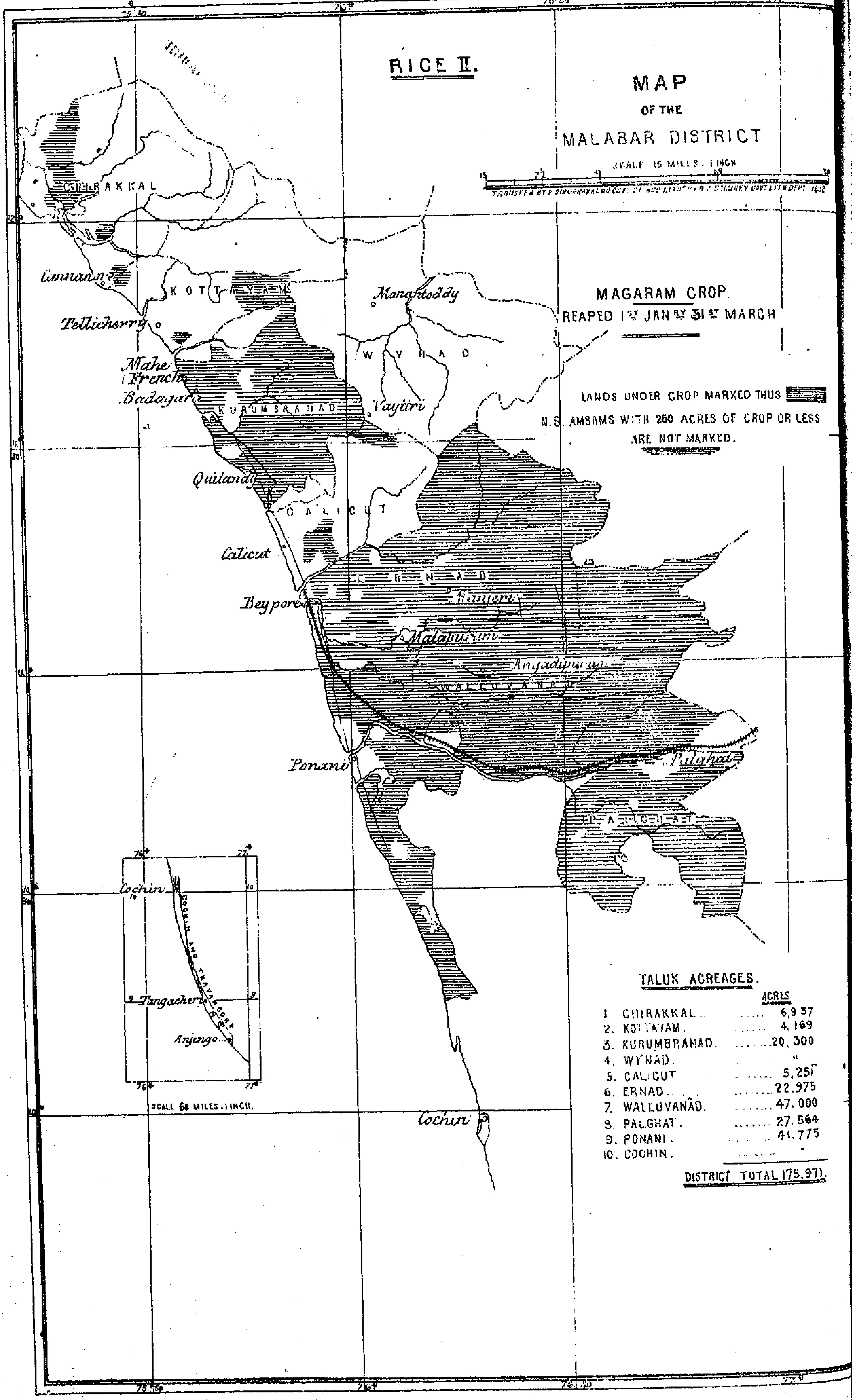
OTHER GRAIN CROPS.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
HARVEST – Sept. to Jan.
AREA UNDER CROP MARKED THUS.
N. B. AMSAMS WITH 100 ACRES OF CROP OR LESS ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
PONANI
Ponani
Palghat
PALGHAT
Cochin
COCHIN AND TRAVANCORE
Anjengo
SCALE 60 MILES = 1 INCH
TALUK ACREAGES.
ACRES
1. CHIRAKKAL 4.140
2. KOTTAYAM 610
3. KURUMBRANAD 570
4. WYNÂD 1.850
5. CALICUT 299
6. ERNÂD 2.175
7. WALLUVANÂD 1.200
8. PALGHAT 11.006
9. PONANI 2.195
10. COCHIN ..
DISTRICT TOTAL 24.045.

PONAM (HILL RICE AND MIXED CROP.)
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
HARVEST. — Sept. - Octr.
AREA UNDER CROP MARKED THUS.
N.B. AMSAMS WITH 100 ACRES OF CROP OR LESS ARE NOT MARKED.
C H I R A K K A L
Cannanore
K O T T A Y A M
Tellicherry
Mananoddy
W Y N A D
Mahe (French)
Badagara
K U R U M B R A N A D
Vayitri
Quilandy
C A L I C U T
Calicut
E R N A D
Beypore
Manjeri
Malapuram
Angadipuram
W A L L U V A N A D
Ponani
Palghat
P A L G H A T
Cochin
Tangacherry
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES = 1 INCH
Cochin
TALUK ACREAGES.
ACRES
1. CHIRAKKAL 11.750
2. KOTTAYAM. 9.389
3. KURUMBRANAD.... 2.614
4. WYNAD. 10
5. CALICUT. .... 703.
6. ERNAD 1.435
7. WALLAVANAD. .... "
8. PALGHAT. .... "
9. PONANI. .... "
10. COCHIN. .... "
DISTRICT TOTAL 25.901.

MODAN (UPLAND RICE)
AND
ELLU (GINGELLY OILSEED)
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
TRANSFER BY P. SINGARAVALOO CHETTY AND LITH. BY A. J. BALDREY GOVT. LITH. DEPT. 1882
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
PONANI
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES = 1 INCH
MODAN HARVEST. – Augt – Septr
ELLU HARVEST. – Decr – Janr
LANDS UNDER CROP MARKED THUS.
N.B. AMSAMS WITH 100 ACRES OR LESS ARE NOT MARKED.
TALUK ACREAGES.
ACRES
1. CHIRAKKAL 1.998
2. KOTTAYAM 580
3. KURUMBRANAD 1.725
4. WYNÂD 381
5. CALICUT 2.491
6. ERNAD 7.635
7. WALLUVANÂD 22.952
8. PALGHAT 6.133
9. PONANI 2.696
10. COCHIN "
DISTRICT TOTAL 46.591



RICE II.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
MEDHAM CROP
REAPED APRIL–MAY
LANDS UNDER CROP MARKED THUS
N.B. AMSAMS WITH 100 ACRES OF CROP OR LESS
ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Valapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES = 1 INCH
TALUK ACREAGES.
ACRES
1. CHIRAKKAL.
2. KOTTAYAM.
3. KURUMBRANAD. 67
4. WYNÂD.
5. CALICUT. 657
6. ERNÂD. 3,000
7. WALLUVANÂD. 3,000
8. PALGHAT. 125
9. PONANI. 4,894
10. COCHIN.
DISTRICT TOTAL 11,743.


RICE II.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES 1 INCH
MAGARAM CROP.
REAPED 1ST JAN BY 31ST MARCH
LANDS UNDER CROP MARKED THUS
N.B. AMSAMS WITH 250 ACRES OF CROP OR LESS ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES 1 INCH
TALUK ACREAGES.
ACRES
1 CHIRAKKAL 6,9 37
2. KOTTAYAM. 4,169
3. KURUMBRANAD. 20,300
4. WYNAD. "
5. CALICUT 5,251
6. ERNAD...... ....22.975
7. WALLUVANÂD. 47,000
8. PALGHAT. 27,564
9. PONANI. 41,775
10. COCHIN. ....
DISTRICT TOTAL 175,971.

RICE I.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
KANNI CROP
REAPED 1ST SEPR. 31ST DECR.
N.B.
AMSAMS WITH 500 ACRES OF CROP, OR
LESS ARE NOT SHOWN ___
LAND UNDER CROP MARKED THUS
CHIRAKKAL
KOTTAYAM
WYNAD
KURUMBRANAD
CALICUT
ERNAD
WALLUVANAD
PALGHAT
Cannanore
Tellicherry
Mahe (French)
Badagara
Manantoddy
Vayitri
Quilandy
Calicut
Beypore
Manjeri
Malapuram
Angadipuram
Ponani
Palghat
Cochin
Tangacherri
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES = 1 INCH
TALUK ACREAGES.
ACRES.
1 CHIRAKKAL 48.645
2. KOTTAYAM 11.907
3. KURUMBRANAD 10.073
4. WYNÂD 20.020
5. CALICUT 20.349
6. ERNAD 38.789
7. WALLUVANÂD 47.000
8. PALGHAT 86.414
9. PONANI 46.568
10. COCHIN .... .317
DISTRICT TOTAL 330,073.

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CHAPTER IV.

AGRICULTURE AND AGRICULTURISTS.

Preliminary Observations.

Maps, &c., prepared to illustrate the agriculture and horticulture of the district.

73. Some preliminary remarks seem to be required on this division of the subject to enable the Government to form precise ideas of the kinds of agriculture and horticulture carried on in the district, of the areas under crop, and of the localities where each crop particularly prevails. To this end, therefore, I have prepared the following series of Maps, and in Appendix XIV will be found a detailed account of the native modes of cultivation. I regret that the materials at my disposal do not enable me to give areas in certain cases, such as, for coconut, areca and jack gardens; the reason being that in these instances the assessment accounts show the number of trees, while the areas in which they stand have never been accurately measured.

The three rice-crops.

74. There are three regular rice-crops in the year, but the third crop is very limited in area, and depends on special facilities for irrigation:—

	ACRES.
1st Crop	3,30,073
2nd „	1,75,971
3rd „	11,743
Total ..	5,17,787

In 1822, Mr. Græme gave * the per-centage ratios between areas under the three crops, and these may, as follows, be suitably compared with similar per-centage ratios now:—

	In 1822. Per Cent.	*Now.* Per Cent.
1st Crop	51¼	64
2nd „	47¾	34
3rd „	1	2
	100	100

Tendency of this cultivation.

75. The cultivators have seemingly in the interval made more and more extensive use of the first heavy rain-falls of the south-west monsoon, and have less and less resorted to artificial means of obtaining water for their crops. The third crop, however, has improved.

Mōdan, *Ellu* and *Punam* crops.

76. As regards other grain crops—*Mōdan* (upland rice) and *Ellu* (gingelly seed grown on uplands), *Punam* (hill rice and other grains and pulses), and miscellaneous (various other grains and pulses, &c.),—the maps show clearly in what localities these are chiefly produced and the areas under cultivation. These crops are all dependent on the vicissitudes of the seasons. The lands are rarely, if ever, cultivated two seasons consecutively. It was usual in former days to allow the land to lie fallow from 7 to 12 years between each crop; but these periods of rest have gradually been diminishing. The land, therefore, produces now much lighter crops than it did formerly; the methods of cultivation having, in the mean time, remained stationary, or perhaps retrograded.

The seasons during which the land had rest are diminishing, and cultivation is stationary or retrograding.

* Para. 1341 of his report.

77. As regards the Punam cultivation in the Northern division, the following notes, which I quote *verbatim*, convey an accurate idea of the circumstances of the cultivators, and of why they do not resort to more settled modes of life. At present all they require for themselves is an axe, a bill-hook, and a hoe, and an obliging trader to advance them seed (at 25 to 30 per cent. interest); scrub-jungle land is abundant and easily obtained. These conditions suit their present poverty-stricken state, but they are capable of better things if encouragement were held out to them.

The poverty and fever-stricken condition of the *Punam* cultivators.

There is little wonder that the pepper exports, for which Malabar was famous in former times, have retrograded in the last 30 years (*see* Appendix XV).

The pepper exports are diminishing.

NOTE 1.

" *Punam* cultivation—Kuttiyēri *Amṣam*, Chiṛakkal Taluk.

"The following is an abstract of what the *Punam* cultivators, residing at the *Chaṗpārakaḍavu*, stated to me at an inquiry I made regarding the *Punam* cultivation, and the circumstances under which people resorted to *Punam* cultivation in preference to making permanent *paṛambas*. I believe their representation to indicate the true state of things. They state as follows :—

"(1) Most of us, *Punam* cultivators, are persons living from hand to mouth. We have not the means of converting land into permanent *paṛambas*, which will require money to be laid out for several years before we can expect any return. We have not even paddy for use as seed. All we possess is our personal labor.

"(2) Rocky hills will not do for pepper, &c., but they will answer for *Punam*, which requires earth but a couple of feet deep.

"(3) Even if we had the means of making *paṛambas*, we should eventually become losers by it. Such are the terms on which land is generally given on *Kuḻikkāṇam*. In this *Amṣam* land is generally assigned for 16 years on a yearly *pāṭṭam* of Rs. 2 for an area capable of holding 500 pepper vines. It will take some 5 or 6 years for the vines *to begin* to yield in these hilly tracts; and it will take about ten years for the vines to arrive at full bearing. We are thus left only some six years' full crop, and then comes the suit for eviction, when we are paid at the miserable rates of 10 pies for each vine and 3 annas and 4 pies for each jack tree. Even a Court will not adjudge to us a higher rate of compensation for our improvements. Where the land is fit for pepper cultivation, and we have the necessary means, we should have a lease of twenty-five years and be paid at liberal rates for the improvements made. As matters now stand, if we seek for a twenty-five years' lease, the *Janmi* will demand a *Kāṇam* of at least Rs. 50 for a space of land capable of holding 1,000 vines.

"(4) The general unsuitableness of hill tracts for *paṛambas* is the main reason that such land is not used for permanent improvements. The lower portion of the slopes may answer for pepper cultivation, but the upper portion is fit for nothing except *Punam*. The *Janmis* who can command means make pepper gardens on the slopes only. Even they use the rest of the hill for *Punam*.

"(5) At present, devoid as we are of any means, we are obliged every year to commence our *Punam* by borrowing paddy at 25 or 30 per cent. interest. We use a portion of the paddy so borrowed as seed, spending the remainder for our daily use. We repay the loan with its heavy interest as soon as the crop is gathered.

"(6) Another source of loss to which we are subjected is in the over-estimate of the extent of land cultivated by us. At the reaping time the *Janmi's Kāryastan* comes and makes a rough calculation of the quantity of seed sown. The rent is calculated at twice the quantity of seed; but when this seed is over-estimated, as is generally done, we have actually to pay rent at three or even four times the quantity of seed.

"The above is a résumé of the statements made to me. My own impression is that these *Punam* cultivators are a class of hard-working and industrious laborers, and that the *Janmis* and the paddy-lenders take advantage of their poverty.

"CHIRAKKAL, 17*th June* 1881. "(Signed) B. M. D'CRUZ, *Ag. Tahsildar*."

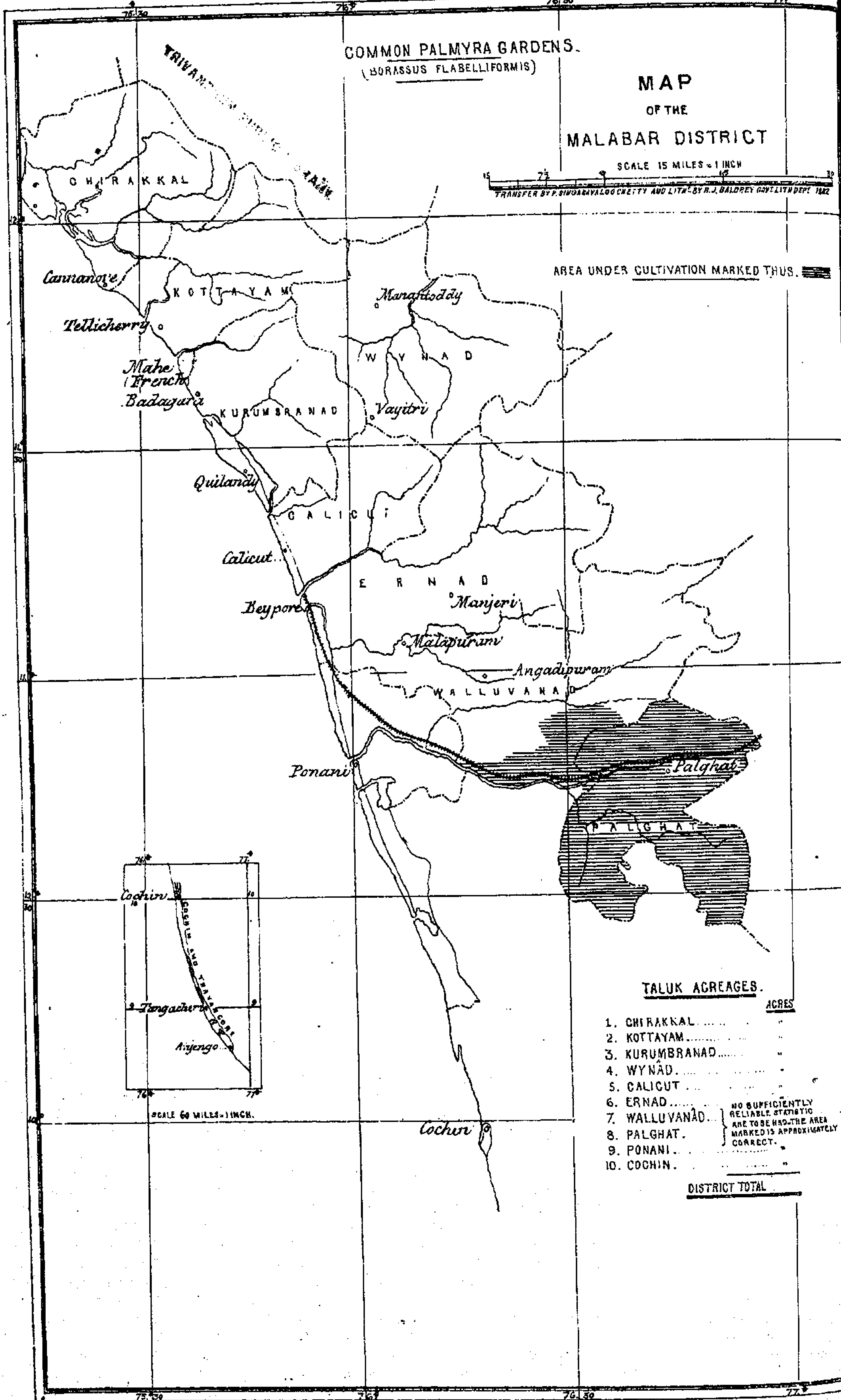
NOTE 2.

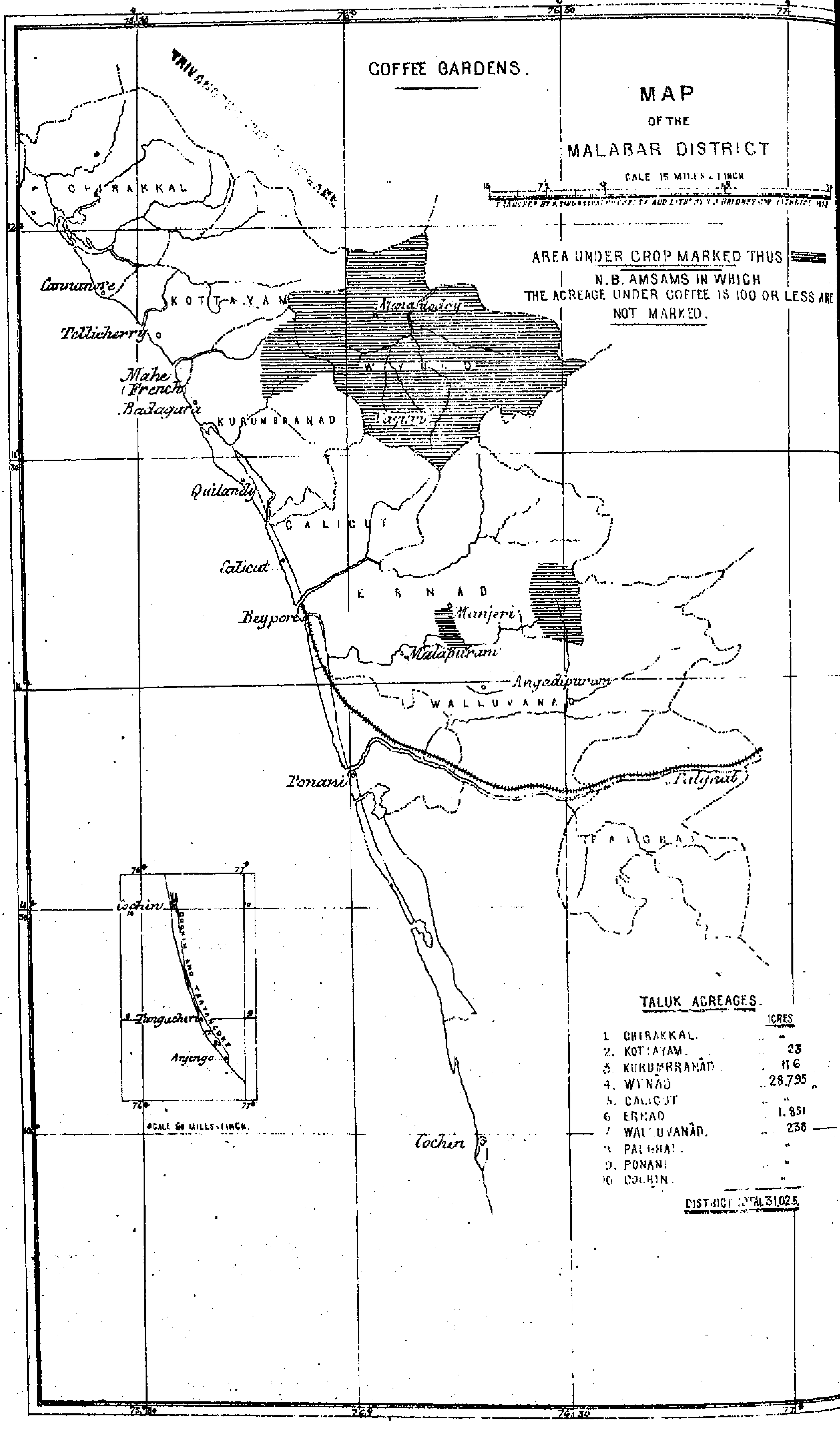
The Tahsildar and I made independent inquiries in different directions. The result of my inquiries was precisely identical with that arrived at by the Tahsildar. *Punam* cultivators would, like other people, settle down in permanently cultivated holdings, instead of leading a miserable wandering life, full of hardships and of disease * if sufficient inducements were held out to them. They are without exception in debt. *Janmis*, with whom I also conversed, do not see their own true interests in this matter, and blame *Māppiḷḷa* traders for enticing away their tenants. The traders assist the tenants, the *Janmis* do not.

17*th June* 1881. (Signed) W. LOGAN.

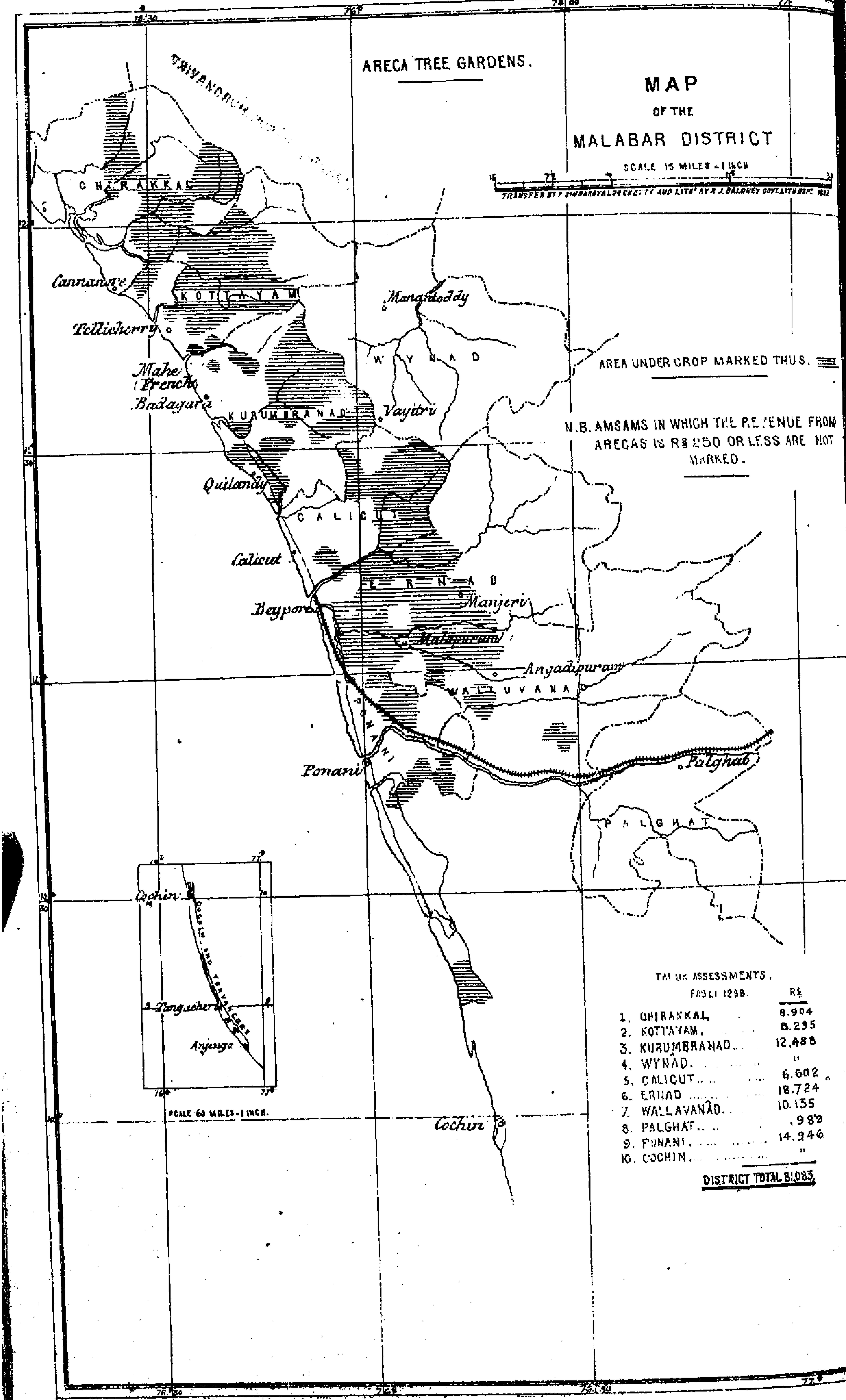
* One man told me he had fever regularly once a month.

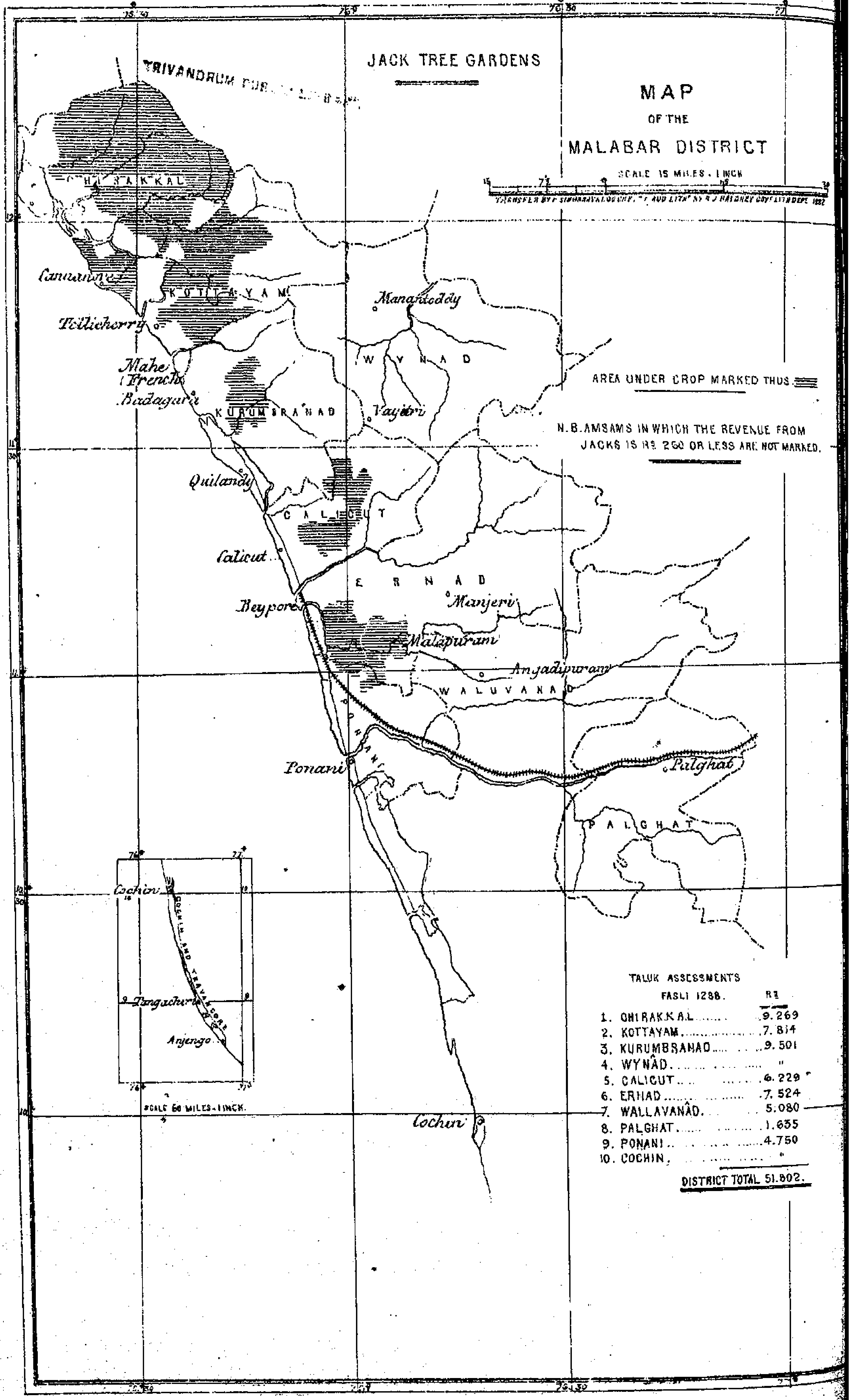
OTHER GARDEN PRODUCE
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
THE AREA UNDER CULTIVATION MARKED THUS.
N.B. AMSAMS HAVING LESS THAN 100 ACRES
UNDER CROP ARE NOT MARKED.
N.B. AS THERE ARE NO STATISTICS OF SUCH GARDENS THE
FIGURES, GIVEN BY THE TAHSILDARS, ARE TO BE TAKEN AS ONLY
ROUGHLY APPROXIMATE.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH
Cochin
TALUK ACREAGES.
ACRES
1. CHIRAKKAL
2. KOTTAYAM.
3. KURUMBRANAD. 810
4. WYNAD. -
5. CALICUT. 16,743
6. ERNAD. 834
7. WALLUVANAD. 1,500
8. PALGHAT. 1,727
9. PONANI. 1,094
10. COCHIN.
DISTRICT TOTAL 22,705


COMMON PALMYRA GARDENS.
(BORASSUS FLABELLIFORMIS)
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
AREA UNDER CULTIVATION MARKED THUS.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagura
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH.
TALUK ACREAGES.
ACRES
1. CHIRAKKAL
2. KOTTAYAM
3. KURUMBRANAD
4. WYNAD
5. CALICUT
6. ERNAD
7. WALLUVANAD
8. PALGHAT
9. PONANI
10. COCHIN
NO SUFFICIENTLY RELIABLE STATISTIC ARE TO BE HAD. THE AREA MARKED IS APPROXIMATELY CORRECT.
DISTRICT TOTAL


COFFEE GARDENS.
MAP
OF THE
MALABAR DISTRICT
AREA UNDER CROP MARKED THUS
N.B. AMSAMS IN WHICH
THE ACREAGE UNDER COFFEE IS 100 OR LESS ARE
NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe
(French)
Badagara
KURUMBRANAD
WYNAD
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH
TALUK ACREAGES.
ACRES
1 CHIRAKKAL. "
2. KOTTAYAM. 23
3. KURUMBRANAD. 116
4. WYNAD 28,795
5. CALICUT "
6 ERNAD 1,851
7 WALLUVANAD. 238
8 PALGHAT. "
9. PONANI "
10 COCHIN. "
DISTRICT TOTAL 31,023

PEPPER GARDENS.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
Cannanore
Tellichorry
Mahe
(French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Manjeri
Beypore
Malapuram
Angadipuram
WALUVANAD
PONANI
Ponani
Palghat
PALGHAT
Cochin
THE AREA UNDER CROP
IS MARKED THUS.
N.B. AMSAMS IN WHICH THE AREA UNDER
PEPPER IS 100 ACRES OR LESS ARE NOT
MARKED.
Cochin
COCHIN AND TRAVANCORE
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH.
TALUK ACREAGES.
ACRES
1. CHIRAKKAL. 2,111
2. KOTTAYAM. 5,410
3. KURUMBRANAD.
4. WYNAD.
5. CALICUT.
6. ERNAD.
7. WALLAVANAD.
8. PALGHAT.
9. PONANI.
10. COCHIN.
DISTRICT TOTAL 7,521


AREC TREE GARDENS.
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
AREA UNDER CROP MARKED THUS.
N.B. AMSAMS IN WHICH THE REVENUE FROM ARECAS IS R$ 250 OR LESS ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
PONANI
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH.
Cochin
TALUK ASSESSMENTS.
FASLI 1288. R$
1. CHIRAKKAL 8.904
2. KOTTAYAM. 8.295
3. KURUMBRANAD 12.488
4. WYNAD. "
5. CALICUT 6.602
6. ERNAD 18.724
7. WALLAVANAD. 10.135
8. PALGHAT .989
9. PONANI 14.946
10. COCHIN "
DISTRICT TOTAL 81.083.


JACK TREE GARDENS
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
AREA UNDER CROP MARKED THUS
N.B. AMSAMS IN WHICH THE REVENUE FROM JACKS IS RS 250 OR LESS ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Manjeri
Beypore
Malapuram
Angadipuram
WALUVANAD
PONANI
Ponani
Palghat
PALGHAT
Cochin
Tangachiri
Anjengo
COCHIN AND TRAVANCORE
SCALE 60 MILES = 1 INCH
TALUK ASSESSMENTS
FASLI 1288. RS
1. CHIRAKKAL 9.269
2. KOTTAYAM 7.814
3. KURUMBRANAD 9.501
4. WYNÂD "
5. CALICUT 6.229
6. ERNAD 7.524
7. WALLAVANÂD 5.080
8. PALGHAT 1.655
9. PONANI 4.750
10. COCHIN "
DISTRICT TOTAL 51.802.

COCOANUT GARDENS
MAP
OF THE
MALABAR DISTRICT
SCALE 15 MILES = 1 INCH
AREA UNDER CROP MARKED THUS.
N. B. AMSAMS IN WHICH THE REVENUE FROM COCOANUTS IS RS. 1000 OR LESS ARE NOT MARKED.
CHIRAKKAL
Cannanore
KOTTAYAM
Tellicherry
Mahe (French)
Badagara
KURUMBRANAD
Manantoddy
WYNAD
Vayitri
Quilandy
CALICUT
Calicut
ERNAD
Beypore
Manjeri
Malapuram
Angadipuram
WALLUVANAD
Ponani
Palghat
PALGHAT
Cochin
Tangacheri
Anjengo
SCALE 60 MILES = 1 INCH
Cochin
TALUK ASSESSMENTS
FASLI 1288
RS
1. CHIRAKKAL 44.429.
2. KOTTAYAM 38.486.
3. KURUMBRANAD 94.932.
4. WYNÂD "
5. CALICUT 49.558.
6. ERNAD 28.712.
7. WALLAVANÂD 3.844.
8. PALGHAT 3.168.
9. PONANI 90.141.
10. COCHIN 7.116.
DISTRICT TOTAL RUPEES 360.386.

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78. Finally, it will be as well to note here, as the fact will come in usefully hereafter (Chapter VII, Section II), that the following is the total grain-crop acreage of each taluk:—

The grain-crop acreages of taluks.

Taluks.	Acreage.	Per-centage.
Chirakkal	73,470	12
Kōṭṭayam	26,655	4
Kurumbranād	35,349	6
Wynād	22,261	4
Calicut	29,750	5
Ērnād	76,000	12
Walluvanād	1,21,152	20
Pālghat	1,31,242	21
Ponnāni	98,128	16
Cochin	317	..
Total ..	6,14,324	100

Nearly 70 per cent. of the grain-crop areas lie in Ērnād, Walluvanād, Pālghat, and Ponnāni.

79. In regard to the map of the coconut gardens, it will be seen that this kind of cultivation flourishes best close to the sea. In the inland taluks the trees are more difficult and expensive to rear, and, when reared, they yield less produce, and frequently require irrigation during every hot season. This fact and another, namely, that gardens once brought into full bearing rapidly deteriorate if neglected, have an important influence on the agricultural class, for it is notoriously the grain-crop cultivators who are worst off.

Coconut plantations flourish best near the coast.

80. The other garden maps do not require any special remarks, except perhaps that showing the pepper country. Further to elucidate it, there will be found in Appendix XV a statement of the exports of pepper by sea from 1806-7, the year when the land assessment on pepper was taken off, down to 1880-81. Taking quinquennial averages, the production was more than quadrupled in the period from 1806-7 till 1851—1856. Since then, though the price of the article has risen and the export duty has been cancelled, the production has actually fallen off instead of being stimulated. This is hardly to be wondered at when the cultivator's observations recorded in para. 77 above are taken into consideration. The district in general and North Malabar in particular are capable of growing a very much larger quantity of this spice than has ever yet been exported, but the cultivators' position must to this end be improved.

The pepper country. Exports of pepper diminishing in the last 25 years.

Reason for this.

81. Appendix XVI contains a comparative statement of area, revenue, population, cultivators and laborers. The figures of the census, 1881, not being yet fully available, I have adopted the figures of census, 1871. The main results are—

Comparative statement of areas, &c., Appendix XVI.

I.—*Of the Land Revenue*—

Land Revenue per-centages.

66	per cent. comes from wet-lands.
32	" " " garden "
1	" " " upland rice lands.
1	" " " hill " "
100	

II.—There are 1·73 laborers to each cultivator, but the returns do not distinguish between agricultural laborers and others.

Laborers and cultivators.

Acres per individual of total area.

III.—According to one return, there are 8·09 acres of total area to each cultivator and laborer; according to another, there are 11·32 acres of total area to each.

Acres per individual of total area, cultivated.

IV.—The number of acres of cultivated area to each cultivator and laborer is 2·30 acres.

Acres per individual of total area, culturable.

V.—The number of acres of culturable area to each is 5·21 acres.

Analysis of laborers and cultivators, Appendix XVII.

82. Appendix XVII contains an analysis of the cultivators and laborers arranged by caste. The main results are—

Cultivators.

VI.—The chief of the cultivating classes are—

	Per Cent.
Vellālars (Nāyars)	35·80
Shānars (Tīyar)	19·80
Māppillas	26·72

Laborers.

VII.—The chief laboring classes are—

	Per Cent.
Shānars (*Tiyar*)	26·03
Pariahs (*Cherumar, &c.*)	29·64
Māppillas	21·24

Some other figures.

83. Some other figures gathered from the census reports may be subjoined.

Per-centage to total males, cultivators.

VIII.—Cultivators bear to the total male population the following proportions :—

In Malabar.	*In the Presidency.*
15·9 per cent.	31·1 per cent.

Per-centage to total males, laborers.

IX.—Laborers bear to the total male population the following proportions :—

In Malabar.	*In the Presidency.*
27·4 per cent.	13·1 per cent.

Per-centage to total males, cultivators and laborers.

X.—Cultivators and laborers, taken together, bear to the total male population the following proportions :—

In Malabar.	*In the Presidency.*
43·3 per cent.	44·2 per cent.

Per-centage to adult males, cultivators and laborers.

XI.—Finally, compared with the adult male population, the proportions are—

	In Malabar.	*In the Presidency.*	*In India.*
Cultivators.. ..	25	51·3	56·2
Laborers	44	21·7	12·3
	69 per cent.	73 per cent.	68·5 per cent.

The general results.

84. The general results may be thus summed up. Fully two-thirds of the land revenue of the district is derived from grain crop-land; the cultivating and laboring classes consisting chiefly of *Nāyars*, *Tīyars*, *Pariahs* and *Māppillas* have taken up as yet just about one-third of the culturable lands, and there remains to each of them over 5 acres to take up; but in Malabar the cultivating class is proportionally just about half of what it is in the Presidency generally, while the laborers in Malabar are doubly more numerous than in the Pre-

sidency generally. Finally, the cultivators and laborers taken together bear about the same proportion to the male population in Malabar as they do elsewhere.

The position of the actual cultivators early attracted my notice.

85. At an early period in this inquiry,—as soon, in fact, as I had begun to make personal inquiries into the condition of the classes interested in the soil,—it became evident that the one class, whose interests deserved the most careful consideration, was that of the actual cultivators of the soil. It became evident that a large proportion of this class consisted of men whose proper function ought to have been to work for hire. It no doubt suits the temperament of natives to sit still if others will obligingly slave themselves for their benefit, accept all the risks, and part with a large share of the profits; but it is obvious that cultivation thus conducted is in a retrogressive stage. If the cultivators are coolies, and satisfied often with less than cooly wages, it is certain that progress in the arts of cultivation must not only cease, but retrogression must ensue.

Cultivation must retrograde if left to coolies.

The condition of the actual cultivators kept steadily in view in this report.

86. I have, therefore, throughout the inquiry endeavoured to arrive at correct ideas of the condition of the actual cultivators alone, believing as I do most fully that all other classes interested in the soil of Malabar deserve to be regarded as mere investors of their money, and as such perfectly competent to take care of themselves.

Former correspondence regarding the condition of the actual cultivators.

87. In Chapter IV of Appendix II, will be found notices of this question in times past. The Honorable Court of Directors, at an early period of British rule, turned their earnest attention to the condition of the actual cultivators of the soil; but, as will be seen on a reference to the details given in that chapter, the question eventually dropped out of sight. It was thought, no doubt, that the *ryotwāri* system provided for all contingencies; whereas if any, even the smallest inquiry had been made into the condition of the actual cultivators of the soil in Malabar, as apart from ideal *ryots*, it would have been at once apparent that the *ryotwāri* system altogether failed to provide for such a state of things as existed in Malabar then, and as exists now. When the *ryot* of our revenue accounts is, as often happens, the holder of a fat appointment in some public or private office, who has perhaps never seen the piece of land, of which he holds the title-deeds and *paṭṭa*, it is clear that Sir Thomas Munro's ideal *ryot* has fallen away from his traditions, and has become something very different from the *ryot* sketched in Sir Thomas Munro's papers. The result was natural enough; the pity is that it was not foreseen and guarded against, for in Malabar the actual cultivators are rapidly degenerating into insolvent cottiers.

Too much faith was placed on the *ryotwāri* system.

The "ideal ryot" has fallen away from his traditions.

Section I—Matters, Personal.

Indebtedness of the actual cultivators.

88. The first and most important matter brought to notice in the petitions is the state of indebtedness complained of by many of the petitioners. There is ample evidence in the petitions* themselves that the complaints are true, and the Statistical Register (Appendix IV, Columns 251—254) most fully corroborates them. Subjoined are the facts taken from the Statistical Register:—

		NO.
The number of actual cultivators, whose financial positions were examined		7,994
The number of these who were in debt		4,401
	RS.	A. P.
The amount of their debts	17,38,717	14 6
		NO.
The number of those who had money out on interest ..		1,406
	RS.	A. P.
The amount thus lent out on loan	7,51,240	11 4

* *See* Petitions indexed under "Debt."

The reasons assigned for incurring debt.

89. The reasons assigned for incurring debt (Appendix IV, Columns 255—267) were—

(*a*) Connected with agriculture—

	Persons.	Persons.	Per-centage.	Per-centage.
1. House and land improvements ..	736		12·9	
2. Purchase of stock	182		3·2	
3. Excessive rents	221		3·9	
4. Excessive fines, &c., on renewal of leases	644		11·3	
5. Bad seasons	1,222		21·4	
6. Loss of stock	214		3·7	
7. Accidents	7		0·1	
8. Miscellaneous	39		0·7	
Total ..	..	3,265	..	57·2
(*b*) Connected with family, trade, &c.—				
9. Wedding and other ceremonies ..	671		11·8	
10. Sickness	114		2·0	
11. Family maintenance	1,498		26·2	
12. Trade losses	106		1·9	
13. Miscellaneous	53		0·9	
Total ..	..	2,444		42·8
Grand Total ..	..	5,709		100

Some persons assigned more reasons than one for their indebtedness.

Balancing the sums lent against the debts, the balance due to money-lenders is nearly Rs. 10,00,000 due by 5,807 cultivators.

90. It is perhaps superfluous to comment on these figures. Even balancing the sums given out on loan by the cultivators against the debts owing by them, there is a balance against the 5,807 cultivators of nearly Rs. 10,00,000, and it is a significant fact that the interest on this large sum goes to the money-lenders.

The high rates of interest paid to money-lenders.

91. I may add that the usual rates of interest paid on these sums varies from 12 to 36 per cent. per annum, entailing a huge addition to the already, in many cases, excessive rents. A considerable share of this interest finds its way at present into the pockets of agriculturists; but there can be no doubt that more and more of it, as the pressure on the agriculturists increases, will be appropriated by money-lenders, pure and simple.

Caution as to the figures in para. 89 as to reasons for incurring debt.

92. It may seem strange that, in the face of the facts to be presently noticed that the lands are, as a rule, every where over-rented, so few of the tenants should have attributed their indebtedness to excessive rents and excessive renewal fees; but it is to be remembered that their statements on these points were given in the presence of their landlords or of their landlords' agents, and the bulk of them naturally enough preferred to blame the weather or the expenses of maintaining their families rather than their landlords.

Classification of the helping members of the cultivators' families.

93. Finally, it will be noted that the cultivators are assisted in several ways by other members of their families (Appendix IV, Columns 245—250). The helping members number 7,868 of whom—

499	have *professional* employments,
190	are employed in *domestic* service,
761	follow a *trade* of some sort,
932	are *industrially* employed, and
5,486	have *no definite employment*, that is to say, they are coolies, day-laborers, &c,
7,868	

Number of persons dependent on each cultivator.

94. Deducting these helping members from the numbers of persons dependent (Appendix IV, Columns 268-269) on the actual cultivators thus—

Adults	33,190
Children	23,854
Total ..	57,044
Helping Members ..	7,868
There remains a balance of ..	49,176

for whom the 7,994 actual cultivators have to provide, that is to say, in round numbers, each actual cultivator has to find food for at least (6) six persons besides himself. There are just (6) six persons to each house in the district (census, 1871), so that each cultivator has dependent on him one or more persons living separately.

Petition Register Index Heading—"Failure of Crops."

95. Of the failure of crops and bad seasons the petitioners complained but little, and yet it will be noted that bad seasons play an important part in the reasons given for indebtedness. I came to the conclusion that the cultivators, in the presence of their landlords or their landlords' agents, preferred blaming themselves (for maintaining too large families), or the weather (for being unpropitious) rather than their landlords (for taking too much rent).

Petition Register Index Headings — "Individual grievances" and "Oppression of tenants."

96. Many complained that they were afraid to relate their individual wrongs, because their *Janmis* would take vengeance on them if they did. I do not think many *Māppillas* were thus deterred, but I have already stated that the Hindus were kept back largely by such considerations.

Petition Register Index Headings—"No houses to live in," "No means of livelihood," "No other land."

97. The three complaints of having no houses to live in, no means of livelihood, and no other land were common, and there was some force in them. A tenant turned out of his holdings does not readily take root elsewhere, and unless he has some capital, the only resource open to him is the labor market already sufficiently stocked. Coolies or persons of the cooly cultivator class, it will be remembered, are doubly more numerous in Malabar than elsewhere in the Presidency. As regards the complaint that they could find no other land, it will be seen on reference to the word "*Cowle*" in the Glossary Appendix I, that the Courts now hold that a Government *Cowle* gives the holder no right to possession as against the *Janmi*. A tenant put in on a Government *Cowle* one day may now be turned out on the day following by the *Janmi*. This ruling, though perhaps in accordance with the views of the *Janmi's* position adopted by the Courts, is certainly in direct contravention of the former customary rule, *see* pages 17 and 20 of the pamphlet containing correspondence on the subject of landlords and tenants in Malabar, 1852—1856.

Section II.—Matters, Social.

Honorific and humiliating forms of address.

98. One instance* was cited in which the withholding of an honorific form of address led to eviction. This case occurred among *Nāyars*. The *Māppillas*† in a large body objected to the use of humiliating forms of address and of prostration required by the *Nambūtiri Brāhmans* from them. They only mentioned one instance of such an objectionable word, viz., having to call their houses "rubbish-heaps;" but it is well known that the vocabulary is large, and is as much objected to by the Hindus as by the *Māppillas*, only the former hardly dare to speak out in public their real sentiments regarding it. In Appendix XVIII will be found a small vocabulary of such phrases, which, I have every reason to think, is correct but not exhaustive.

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* Petition No. 1941. † No. 2191.

Petition Register Index Headings—"Boycotting," "Excommunication," "Society," "Well."

99. Under the headings of "Boycotting," "Excommunication," "Society," and "Well," several instances are given of real grievances one,* in particular, was thoroughly tested by local inquiry and found to be true. The grievance is that persons (Hindus) who incur the displeasure of their *Nambūtiri Brāhman Janmis* are subjected to what is called *Dēsa virōdham*, *i.e.*, the enmity of all residents of the *Dēsam* or hamlet, and *Svajana virōdham*, *i.e.*, the enmity of their own caste-people. This excommunication entails many most unpleasant and unjust consequences: the excommunicated may not be shaved, nor their women purified after confinements; their presence in the temples and at the bathing tanks is stopped; they are prevented from taking water from wells, and others are prohibited from giving it to them; people dare not help them with their domestic ceremonies; all who do them service, or give them aid, or even sometimes are seen speaking to them are either themselves excommunicated or fined. The smallest show of independence is resented as a personal affront. A large number of such cases were confidentially reported to me with full details. I placed the papers in the hands of the Acting District Magistrate, as, in many instances, a successful criminal prosecution might have been instituted against the perpetrators, but it was found impossible to get the people to come forward to complain *for fear of the ulterior consequences—eviction and ruin of families.*

Independence resented as a personal affront.

Petition Register Index Headings—"Caste Rules," "Fines."

100. The instances referred to under the headings of "Caste Rules" and "Fines" come under the same category. Tenants are fined for the most trivial matters; in one† instance, for having dared to use an umbrella with a handle to it; others‡ for having attended a ceremony. One§ was fined for presenting a petition to me.

Section III—Tenures, Preliminary Observations.

Reference to Chapter III, and to Glossary to Appendix I.

101. A good deal has already been said about the chief tenures in Chapter III above treating of the history of the question, and full details regarding the most recent rulings of the Courts will be found in the Glossary attached to Appendix I and in that Appendix itself.

JANMAM.

The Janmi is now regarded as the absolute proprietor of the soil.

102. In respect to *Janmam* the Courts now view this right as the *dominium* of the soil, and the holder of it as the absolute proprietor in the European sense. It will be seen, however, on perusal of the references named above, that I have grave doubts if any such idea was prevalent before the British accession to power. The *Janmi* was undoubtedly in the old days lord paramount over all the occupants of his *Janmam* holding, but it was absolutely essential to his position then that he should have a number of *Kānakkār* or protectors, and that these protectors should be treated with the greatest consideration as upon their number and well-being his whole influence depended.

The customary sharing of the produce of the land.

103. The sharing of the produce of each *Janmam* holding was, in particular, a matter regulated by customary law, which the *Janmi* was not at liberty to break through. The share of produce left over after providing liberally for the cultivating castes was styled *pāttam*, that is, the *pād* (authority's) share. This *pāttam* was divided equally, share and share alike, between the *Janmi* and the *Kānakkār* who had between them inherited the old Government land revenue of Malabar (Appendix I, paras. 114, 192 to 198 and 224 to 231; Appendix II, para. 246). On this point the information given to Mr. Farmer, one of the Joint Bengal and Bombay Commissioners in 1792, is very important, and is, I think, conclusive, as the information came from the *Janmis* themselves. (*See* Section 3, Chapter VII of Appendix I).

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* No. 1276. † No. 2107. ‡ Nos. 2034, 2035, 2083, 2102 and 2103. § Nos. 2197, 2198.

104. The idea, then, that the *Janmi* is absolute proprietor of the soil, and as such entitled to take as big a share of the produce as he can command, is founded on error, and has been brought about by engrafting on the customary *Malayāli* law usages, which spring from European ideas of property having a totally distinct origin and history.

The idea that the *Janmi* was the absolute proprietor is founded on error.

KĀṆAM.

105. As to *Kāṇam*, the rulings and counter-rulings regarding it are, as might be expected, exceedingly numerous, seeing that the Courts have likewise been treating it from the European stand-point of property. The Courts have, however, in the courseof time eventually arrived at something like uniform action in regard to this tenure.

The Courts have arrived at something like uniform action in regard to *Kāṇam*.

106. It is now styled sometimes a lease, sometimes a mortgage, sometimes a mortgage-lease. Whereas, its history shows clearly enough that the *Kāṇam* right was the right to supervise or to protect all the inhabitants of the particular *Nād* or county wherein the land lay, and to enjoy for this service a portion of the net produce of the soil (*i.e.*, of the *pāṭṭam* or *pād's* share) equal in amount to that enjoyed by the *Janmi* or lord paramount. The *Kāṇakkār* or supervisors are probably the modern representatives of the holders of the *Vārakōl* or sharing staff mentioned in Deed No. 3, Appendix I. As such, they would levy from the cultivators the share of produce called the *pād* or authority's share, and make over a portion of it in ancient times to the *Kōn* or *Perumāl* or Emperor, and reserve the balance for themselves as the protectors.

Now viewed as a lease, or a mortgage, or a mortgage-lease,

but it was formerly the supervision or protection right.

Are the *Kāṇakkār* the modern representatives of the holders of the *sharing-staff?*

107. As to what became of the Emperor's share of the produce when the Emperor disappeared in the 9th century, the evidence on record (*see* paras. 55 to 59) is not as satisfactory as could be wished; but the fact that, when the British first acquired the country in 1792, the whole of the net produce, after providing for the cultivator, was being divided, share and share alike, between the *Kāṇakkāran* and the *Janmi* points pretty conclusively, I think, to the proper solution of the question, namely, that the Emperor's share went also originally to the protecting caste (*Nāyars*) and to the ablest men of that caste. This theory certainly accounts in a very natural way for the fact repeatedly noticed, and, finally, condemned by the Courts, of a *Kāṇakkāran* considering it perfectly legitimate for him to transfer himself and his lands at pleasure from one *Janmi* to another.

The Emperor's share also fell to the lot of the protector guild, the *Kāṇakkār*.

108. But it will be urged an ordinary *Kāṇakkāran* was never a fixture on any particular piece of land. Theoretically this was so, but practically he was attached permanently to his holding, for the *Janmi* in ancient times would not dare to oust him for fear of spreading insecurity and discontent among the *Kāṇakkār* who remained. Here is what Mr. Rickards, the second of the Principal Collectors of Malabar, wrote on this point in his book "India,* or Facts submitted, &c.":—"It was a point of honor with the great *Nāyar* families never to turn out a tenant whilst he continued to pay his rent. It was, indeed, the interest of the *Janmis* to treat them well, for they were not only the chief means of providing the *Janmis'* income, but composed his retinue of armed followers, so essential to his consequence and weight in the aristocracy." Mr. Rickards, it may be observed in passing, adopted the views of the *Janmis'* absolute proprietary rights put forth by Major Walker in his Treatise in 1801. By what, therefore, Mr. Rickards here calls "rent" is to be understood "*pāṭṭam*" or the *pād* (authority's) share of the produce, a very different thing.

The *Kāṇakkāran* was practically a fixture on his holding in former times.

109. The *Kāṇakkāran* was, in fact, a hereditary protector of his *Nād* and not, unless under special grant, the hereditary protector of any particular bit of it, (*see* remarks on Deed No. 19 in para. 143 of Appendix I). Hence, it came about that at each succession either to the *Janmam* title or to the *Kāṇam* title an occasion arose

The *Kāṇakkāran* was a hereditary protector of the *Nād* and not, unless under special grant, the protector of any bit of it.

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* Smith Elder and Co., London, 1832.—Vol. II, page 279.

Hence the feudal relations had to be re-adjusted at successions.

This re-adjustment at successions the origin of the modern law.

for re-adjusting the relations between the successor either of the *Janmam* or of the *Kāṇam* holding and the surviving *Kāṇam* or *Janmam* holder (see *Purushāntaram* in Glossary Appendix I). And this, there can be no doubt, is the origin of the modern Court-made law of renewal.

The modern law of *Kāṇam*.

110. What that law is will now be shortly explained—

(*a*) It is now considered a necessary part of the *Kāṇam* tenure that the holder shall advance to the *Janmi* on entry a sum of money, the repayment of which is secured to him on the land itself.

The *Kāṇam* advance of money secured on the land.

(*b*) The modern theory that this advance was made as a security for payment of the so-called rent will be seen to be groundless if reference is made to the remarks on Deed No. 34 in para. 146 of Appendix I, and to the comments thereon. I believe the actual fact to have been that the *Janmi's* and *Kāṇakkāran's* interests were mutually so bound up and identical that the *Janmi*, as a matter of course, resorted to the *Kāṇakkāran* for loans of money when he required them, it may be, for contributions required by the Rāja for repelling invasion (as in North Malabar in 1732), or for endless other purposes, such as the flight into Travancore in Tippu's memorable persecutions, or as a mere token of submission and fealty when the feudal relation was first established between them.

Is the modern view that this advance was made as security for the payment of "rent" correct?

It is more probable that the *Janmi* applied to the *Kāṇakkāran* when he wanted money for various purposes, or as a token of fealty.

(*c*) Again, if this advance had been really intended to secure the rent, how was it that the advances varied so considerably as they did. In North Malabar the advances were very large, but that was probably owing (as already observed) to contributions being raised for the war with the Bednúr State (1732 and afterwards). Whereas in South Malabar, and for instance on the Zamorin's properties, the advances were, and still are, very inconsiderable.

If the advance was made to secure payment of rent, why did the advances vary so greatly?

(*d*) A still more convincing argument that the modern theory (of this sum being an advance made to secure the rent) is based on misconception is to be found in the fact, for which there is ample evidence, that it was customary at each renewal of the *Kāṇam* title in former days for the *Kāṇakkāran* to remit to the *Janmi* a portion of the sum advanced so as eventually to free the *Janmam* holding from debt. It is manifest that if this sum was intended to secure the *Janmi's* rent, such a custom could never have sprung up, because the security to the *Janmi* would have been *pro tanto* diminished at each succession until it disappeared entirely. The theory, therefore, though it has very high judicial sanction, is an unfortunate application of an incongruous principle to the *Malayāli* customary law.

A still stronger argument against the modern view of this advance is that a portion of the advance was wiped out at each succession.

(*e*) The interest on the sum so advanced to the *Janmi* was formerly, and is still, usually allowed for in settling the *Michchavāram* or *Michchāram* (literally superior's share) which the *Kāṇakkāran* undertakes to pay to the *Janmi* out of the net or *pād's* share of the produce of the soil (the *pāṭṭam*). This *Michchavāram* or *Michchāram* is sometimes called the *Janmi-pāṭṭam* or *Janmi's* share, just as the balance or the other half of the *pāṭṭam* is known as the *Kāṇapāṭṭam*, or share due to the protector. I have been surprised to find how familiar even the most illiterate of the agriculturists are with the shares due respectively to *Kāṇakkāran* and *Janmi*. They can usually say at once what the shares are of any particular bit of land, though they know nothing very often of how these shares were arrived at, and though the shares now actually paid as "*rent*" are very much greater.

The interest due on the advance made is deducted from the *Janmi's* share of produce.

Called the *Janmipāṭṭam* as distinguished from the *Kāṇapāṭṭam*.

(*f*) The *Kāṇam* tenure has also, by the ruling of the Courts, gradually acquired another incident, and that is, its liability to renewal at the end of every twelve years. This frequent renewal was not originally an incident attaching to the tenure. The protector (*Kāṇakkāran's*) relations with his superior in former times used to come up, as already related above, for re-consideration and re-adjustment only on succession, either to the chiefship or to the *Kāṇam* tenure. The Courts, some time, I think, between 1825 and 1840, but I have not been able to trace the exact date, began, *in the interests of the tenant*, to fetter the *Janmi's* discretion to get rid of a *Kāṇakkāran*. Searching about for precedents they seized hold of the well-known incident of the *Kuḻikkāṇam* tenure (a sort of improving lease) that twelve years must be allowed to elapse before a *Janmi* could call on his *Kuḻikkāṇam* tenure holder to re-adjust the relations between them. This, as will be explained presently, was a just and salutary rule for the *Kuḻikkāṇan* tenure, but, applied to the *Kāṇam* tenure, it tended to reduce the average succession to a hard and fast period of twelve years.

The *Kāṇam* tenure has acquired a currency of twelve years.

This was done in the *Kāṇakkāran's* interests by the Courts.

(*g*) Now at every succession in former days, it was customary, as already mentioned above and as explained in the notes upon Deed No. 34 in para. 146 of Appendix I, for the *Kāṇakkāran* to remit a portion of any advance he might have made to assist the *Janmi*. The benefit of this was that after a few successions the whole sum advanced by the *Kāṇakkāran* to the *Janmi* was wiped out and the parties resumed their original positions.

A portion of the *Kāṇam* advance was remitted at successions.

(*h*) A practice, however, sprang up of paying to the *Janmi* at these successions a certain sum equivalent in amount to the share of the advance which had to be remitted. In such cases instead of the *Kāṇam* sum being reduced it remained of the same amount as before, and the *Janmi* pocketed the renewal fine without creating any additional burden on the land. This is the form which the renewal every twelfth year now usually takes.

Or a fee equivalent in amount was paid in cash.

This is the form which the renewal now usually takes.

(*i*) The fines now demanded for renewals are, in very many cases, outrageous. The ancient custom was to reduce the *Kāṇam* amount by 13 per cent.* at each succession, so that in seven or eight successions the original debt was completely cleared. (Principal Collector Warden to Board of Revenue, 20th September 1815, para. 36; Major Walker's Treatise, p. 8). The fine on renewals ought, therefore, customarily never to exceed 13 per cent., or at most 20 per cent. of the *Kāṇam* amount, with 5 per cent. more added for various other petty customary fees; but, as matter of fact, the renewal fine on the majority of estates is now anything that the *Kāṇakkāran* can be brought to consent to pay or to have himself bound for. The Courts, acting upon the principle of freedom of contract, have not interfered to put any limit upon the extravagant demands thus made, and thus it has come to pass that a *Kāṇakkāran* taking a *Kāṇam* lease for 12 years has now to find the largest part of his rent *for the whole period of* 12 *years in a lump sum* on entry or renewal.

The fines now demanded at renewals are, in most cases, outrageous.

The fines formerly never exceeded 20 per cent. of the *Kāṇam* amount, with, say, 5 per cent. more for various petty fees.

The *Kāṇakkāran* has now to find the whole of his "rent" in a lump sum at the beginning of his lease.

(*j*) The system, as thus developed by the Courts, is favorable to no one but the money-lender. The *Janmi*, if content to gather in his rents annually instead of in lump sums every 12 years, would be the richer by the extravagant interest which the *Kāṇakkāran* has now to pay to the money-lender. The *Kāṇakkāran* starting with a load of debt does not

The system thus developed is favorable only to the money-lender.

* If the *Kāṇakkāran* gave up the land and claimed his advance, it was usual to remit 20 per cent. of the *Kāṇam* amount.

benefit one pie until the lump sum paid for renewal fees has been cleared off with extortionate interest thereon. Finally, the actual cultivator, if there is such a person below the *Kāṇakkāran*, is saddled with an extreme rack-rent, in order to help the *Kāṇakkāran* to pay off the money-lender's claims.

And is ruinous to the agricultural class.

(*k*) A system could hardly be devised better adapted in every way for ruining the agricultural class.

KUḶIKKĀṆAM.

The Courts have preserved the leading principle of this tenure entitling the holder to sell his improvements;

111. As regards the *Kuḷikkāṇam* tenure, which comes next in importance to the *Kāṇam* tenure, the action of the Courts has most fortunately preserved its leading principle, namely, that a tenant making improvements on the soil has to be paid for them if deprived of his holding, or can sell his interest in them to the highest bidder.

and have extended it to other tenures;

and have even held that a trespasser has a similar right.

112. The Courts have extended this liberal principle to almost all other tenures, and it has now become the well recognised law of Malabar that any tenant, and, more than this, even a trespasser, who makes improvements on the soil is entitled to be compensated for them before he can be turned out of his holding.

How did this principle obtain recognition originally?

113. How such a principle was ever imported into the law is not, I think, difficult to explain. In Chapter III above, and more fully in Appendix I, reasons are given for thinking that ancient society was organised on the plan of a well-regulated household; different classes or castes were told off to perform different functions, which functions were their birthrights. A planter, who reclaimed from the waste and planted up a new garden, and an irrigator, who levelled a bit of waste ground and brought it under wet cultivation, were each performing their legitimate functions in the body politic.

The protector caste were also cultivators.

114. But the *Nāyars*, the protecting caste, if we may credit tradition, were themselves *Veḷḷāḷars* originally, that is, irrigators, and so it is not to be wondered at that when they spread as military colonists over Malabar, many of them should, in addition to their own peculiar function of supervision or protection, have settled down as cultivators also.

Their power and influence would make it difficult to refuse such a reasonable expectation.

115. Their power and influence as *Kāṇakkār* were great as already often insisted upon. The *Kāṇakkāran* was free to transfer his services to any one else who suited him better. If, therefore, he relinquished his *Kāṇam* holding, it was only natural that he should expect to be paid for, or be allowed to sell (which was the same thing) any improvements he had made upon it (see "*Inakkumuri*" in the Glossary to Appendix I) and his position, as a member of the protecting caste, would make it very difficult for the *Janmi* to refuse such a reasonable expectation. Hence, doubtless it came about that an arrangement, which anticipated and even surpassed the most advanced legislation of England probably by some centuries, was imported into Malabar as the result of a wise and just consideration for the best interests of the actual cultivators of the soil.

Improvements were paid for before the customary sharing of the produce was resorted to.

116. It was only just, too, that improvements should be paid for before the customary sharing of the produce was resorted to, and this seems to have been always the case. The payment, however, did not necessarily represent the full market value (as we should understand it) of the improvements made, but only of the share (*pāṭṭam*) to which the *Janmi* was by right of custom entitled. At any rate, I am unable to understand, on any other ground, why the improving tenants were permitted to sell or subdivide their holdings.

The value of the improvements remained as a charge upon the land, and was gradually wiped out at each succession.

117. The more money or labor judiciously laid out upon the land, the greater was the cultivator's profit. If the *pād* (authority) wished to take his customary share from the new gardens formed, or the new paddy fields reclaimed from the waste, he had to buy it at the customary rates prescribed by old established custom. It is

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true that the money thus due was seldom or never paid down in cash, but was allowed to remain as a debt bearing interest upon the land, and was gradually wiped out at each successive renewal and revision of the relations between the parties. But the cultivator knew that these renewals did not come round very frequently; the longer he lived, and the longer his *Janmi* lived, so much the better was it for both of them. And even when a succession did occur, then it was only 13 per cent. of the debt that was wiped out.

The customary sharing of the produce took place after a certain number of years;

118. This customary sharing of the produce of freshly reclaimed land took place in the case of gardens at least at the end of a certain number of years (not more, it is believed, than 12 years) from the time the land was taken up. Up to that time the cultivator enjoyed the whole of the produce with the exception perhaps of a trifling fee of 2 fanams on entry paid more as an act of fealty than as recompense for the privilege of possession. At the end of the period of years, whatever it was, he was paid at customary rates for the shares due as *pāṭṭam* before the customary law regulating the distribution of the produce came into operation. This also seems to have been a regulation conceived in much wisdom for protecting the best interests of the cultivating castes.

and was a wise provision in the interests of the cultivators.

Ideas borrowed from the European law of property have injuriously affected the above wise regulation.

The customary rates were meant as compensation for the customary shares due to the pād or authority.

119. But here again ideas borrowed from the European law of property have come in to upset the well-conceived customary law of Malabar. The Courts have viewed this payment of the customary improvement rates as payment in full to the cultivator for the improvements he has made on the soil, whereas I fully believe, for the reasons stated in para. 116 above, that the rates so established were intended merely as compensation for the customary share of produce due to the *pād* or authority, and as in no sense whatever compensation to the cultivator for his customary share (one-third) of the net produce. It follows, of course, that eviction after payment of the customary rates only is a great hardship, and this hardship has become all the greater in recent years, because of the rise in price of all sorts of produce. In old days, and even now, the cultivator was permitted to sell or even to subdivide his holding, and it was in this way that he was able formerly to realise (if he wished to do so) the full fruits of his industry.

The Janmi's power of ouster has almost completely neutralised the benefits to the cultivator of his right to sell his improvements.

120. It is true the Courts have up to the present time recognised this right also, but the effect of giving the *Janmi* the power of ouster has almost completely neutralised the benefits the cultivator derived from this power to sell or subdivide his holding.

VERUMPĀṬṬAM.

This was the cultivator's tenure.

It entitled him to (⅓) one-third of the net produce, and this has been reserved to him in all British Settlements of Land Revenue.

121. The last tenure, which need be here alluded to, is that now commonly known as *Verumpāṭṭam*. The *Verumpāṭṭam* tenure was formerly the holding of the actual cultivator under the *Kāṇakkāran* or protector. To him belonged one-third of the net produce as his customary share (para. 48 above). This one-third of the net produce has in all British Settlements of the Land Revenue of Malabar carried out or proposed been reserved for the actual cultivator (*see* Appendix II, Chapters III to VII), but no steps have ever been taken to secure to him his enjoyment of it.

The theory that the Janmam right was that of an absolute proprietor created a strong presumption in the Janmi's favor.

All customs limiting his freedom to deal with the land as he liked gave way before express contract.

122. The Courts adopted a theory of *Janmam* property in the soil, which created a strong presumption in the *Janmi's* favor. All customs limiting his freedom to deal as he liked with what was considered to be his own property in the European sense were construed with great strictness, and invariably gave way before express contract. Hence harder and harder terms were imposed by the Janmi on the *Kāṇakkāran* as time went on, and it was more and more clearly seen that the *Janmi* was no longer dependent as formerly on his body of *Kāṇakkār* for security in his rank and position.

The *Janmi* under British rule was no longer dependent for power and influence on his protectors *Kāṇakkār*.

The hard terms he imposed on his *Kāṇakkār* had the effect of hardening those imposed on the *Verumpāṭṭakār*.

A point has now been reached in the grain-producing taluks beyond which further progress is impossible in this direction.

The British Courts backed up by Police and Magistrates and troops and big guns made the *Janmi's* independence complete. The hard terms thus imposed on the *Kāṇakkāran* had, of course, the effect of hardening the terms imposed by the *Kāṇakkāran* on those below him, the *Verumpāṭṭakkār*. The one-third of the net produce to which the *Verumpāṭṭakāran* was customarily entitled, was more and more encroached upon as the terms imposed on the *Kāṇākkāran* became harder and harder. A point has now been reached, beyond which further progress in this direction has in many parts of the grain-producing taluks become impossible. The actual cultivators are hopelessly in debt and hopelessly in arrears with their, in many instances, outrageous rents. The laboring population is double what it is in any other district in the Presidency; the competition for land to cultivate (the only source of employment) is still on the increase; and, in short, the cultivating class is rapidly degenerating into a state of insolvent cottierism.

The cultivators are degenerating into insolvent cottiers.

The Courts have viewed the *Verumpāṭṭam* tenure as a year to year tenancy.

123. Finally, the Courts have viewed the *Verumpāṭṭam* tenure as a tenure from year to year, unless the lease specifically provides otherwise, which ruling is quite inconsistent with the terms as explained in Chapter III above and in Appendix I, on which the actual cultivators were originally set to plant up the gardens and to reclaim the wastes. Strict justice should, I think, at the outset of British rule have regarded the actual cultivators as part proprietors to the extent of one-third of the produce of their holdings, notwithstanding that they were socially in many respects subordinate to the *Janmis* and *Kāṇakkār*. The fact that they were permitted to sell or to subdivide their holdings,—a part of the old law, which is still recognised by the Courts,—is, I take it, very strong proof that in the old days their positions were very different from those they now hold as year to year tenants.

Strict justice should have viewed the *Verumpāṭṭakār* as part proprietors of their holdings.

Permanent Tenures.

Unnecessary to allude to these in detail as they have not been prejudicially affected.

124. Of the permanent tenures and others it is unnecessary for me to speak, as the terms on which they are granted are sufficiently definite, and as the action of the Courts has not prejudicially affected them.

The existing facts relating to tenures may be gathered from Appendix IV.

125. It only remains under this section to explain what are the existing actual facts connected with the tenures of the lands, of which details have been embodied in the Statistical Register (Appendix IV, Columns 10 to 135).

Details regarding actual cultivators.

The number of pieces of land, the tenures of which were investigated was—

Wet or dry lands ..	8,860
Garden „ ..	5,174
Total..	14,034

These were cultivated by the following numbers of persons:—

(*a*) Holding direct from the *Janmi*—

Wet or dry lands ..	5,936	held by	3,073 persons.
Gardens „ ..	4,392	„	2,772 „
Totals ..	10,328	„	5,845 „

(*b*) Holding through intermediaries—

Wet or dry lands ..	2,924	held by	1,612 persons.
Gardens ..	782	„	537 „
Totals ..	3,706	„	2,149 „

Further details distinguishing actual cultivators, intermediaries and cultivators holding from intermediaries.

126. The following table shows the tenures on which these lands were held by—

(1) the actual cultivators holding direct from the *Janmi*;
(2) the intermediaries between the *Janmi* and the cultivator; and,
(3) the actual cultivators holding through an intermediary.

The Tenure on which held and the Description of Land.		Actual Cultivators holding direct from *Janmi*. Lands.	Actual Cultivators holding direct from *Janmi*. Persons.	Details regarding Intermediaries and the Cultivators under them. Intermediaries. Lands.	Intermediaries. Persons.	Actual Cultivators holding under Intermediaries. Lands.	Actual Cultivators holding under Intermediaries. Persons.	Totals relating to Actual Cultivators only. Lands, Columns 2 and 6.	Totals relating to Actual Cultivators only. Persons, Columns 3 and 7.
1		2	3	4	5	6	7	8	9
I. Permanent tenures with or without rent.	Wet or Dry.	186	95	79	74	3	2	189	97
	Gardens ..	152	64	7	7	4	3	156	67
	Totals ..	338	159	86	81	7	5	345	164
II. (*a*) Tenures with advances secured on the land but without rent, not liable to renewal fees at fixed intervals. (otti)	Wet or Dry.	27	15	116	126	19	8	46	23
	Gardens ..	6	5	15	15	..	..	6	5
	Totals ..	33	20	131	141	19	8	52	28
II. (*b*) Do. do. liable to renewal fees at fixed intervals. (quasi-otti)	Wet or Dry.	15	5	9	10	..	..	15	5
	Gardens ..	11	7	..	..	..	..	11	7
	Totals ..	26	12	9	10	..	..	26	12
III. (*a*) Tenures with advances secured on the land and with rent, not liable to renewal fees at fixed intervals. (quasi-Kānam)	Wet or Dry.	17	10	8	8	..	..	17	10
	Gardens ..	6	6	70	72	..	..	6	6
	Totals ..	23	16	78	80	..	..	23	16
III. (*b*) Do. do. liable to renewal fees at fixed intervals. (Kānam)	Wet or Dry.	1,902	973	2,368	2,684	173	106	2,075	1,079
	Gardens ..	1,570	1,001	608	655	270	159	1,840	1,160
	Totals ..	3,472	1,974	2,976	3,339	443	265	3,915	2,239
IV. Mortgages with or without rent for definite or indefinite periods. (Panayam)	Wet or Dry.	85	61	161	161	329	224	415	285
	Gardens ..	38	29	33	36	70	56	108	85
	Totals ..	123	90	194	197	399	280	523	370
V. (*a*) Leases for 12 years or more. (Verumpāttam)	Wet or Dry.	294	152	44	45	53	32	347	184
	Gardens ..	678	463	42	51	192	150	870	613
	Totals ..	972	615	86	96	245	182	1,217	797
V. (*b*) Leases for more than 1 and less than 12 years. (Verumpāttam)	Wet or Dry.	1,590	878	105	107	215	142	1,805	1,020
	Gardens ..	1,162	674	4	4	18	16	1,180	690
	Totals ..	2,752	1,552	109	111	233	158	2,985	1,710
V (*c*) Lease for one year or at will. (Verumpāttam)	Wet or Dry.	1,820	884	34	36	2,132	1,098	3,952	1,982
	Gardens ..	769	523	3	3	228	153	993	676
	Totals ..	2,589	1,407	37	39	2,360	1,251	4,945	2,658
Grand Totals..	Wet or Dry.	5,936	3,073	2,924	3,251	2,924	1,612	8,860	4,685
	Gardens ..	4,392	2,772	782	843	782	537	5,174	3,309
	Totals ..	10,328	5,845	3,706	4,094	3,706	2,149	14,034	7,994

3472
2752

Lands held direct are chiefly held by *Kāṇakkār* and short lease tenants.

127. It will be seen from the above table that the bulk of the lands held direct from *Janmis* by actual cultivators is held on the ordinary *Kāṇam* tenure and on short leases (under 12 years); 8,813 out of 10,328 lands are so held.

The intermediaries chiefly hold on *Kāṇam*.

128. The bulk of the intermediaries also hold on the ordinary *Kāṇam* tenure; 2,976 out of 3,706 lands are so held.

Intermediaries sublet chiefly to yearly tenants.

129. The intermediaries again chiefly sublet their holdings to tenants-at-will or from year to year; 2,360 out of 3,706 lands are so held.

The *Kāṇam* tenure almost extinct in North Malabar, except as a means of leasing to intermediaries.

130. Turning to the figures for the different taluks, it will be seen that the *Kāṇam* tenure is almost extinct in North Malabar (except in the case of gardens in the Kurumbranād Taluk) as a means of leasing lands between *Janmis* and actual cultivators, but it still survives there, to a considerable extent, as a means of leasing lands between *Janmis* and intermediaries.

In South Malabar tenants still hold largely direct from *Janmis* on *Kāṇam*.

131. In South Malabar, on the other hand, a large proportion of the lands held direct from *Janmis* by the actual cultivators and from *Janmis* by intermediaries are still held on the ordinary *Kāṇam* tenure.

The tendency in the district generally is to abandon the *Kāṇam* tenure in favor of ordinary leases.

This is just what might be expected to happen.

132. There can be no doubt, however, that in the district generally there is a tendency to abandon the *Kāṇam* tenure in favor of the ordinary lease. In fact, many of the petitions* dwell upon this as a specific grievance, and one† says this tendency has increased since my appointment as Special Commissioner. This change is just what might be expected to happen, for the ordinary lease is, as already observed, much more profitable to the *Janmi* than the *Kāṇam* tenure; because the profits which, under the *Kāṇam* tenure, go into the pockets of the money-lenders, find their way under the ordinary lease into the pockets of the *Janmis*, though the latter have more difficulty in collecting their rents.

This will no doubt become more noticeable as time goes on.

Grain lands much more easily rack-rented than garden lands.

133. The tendency, then, is in favor of ordinary leases, and more particularly in favor of leases from year to year or at will. This will, I have no doubt, become more and more noticeable, especially in the case of grain lands if matters continue as at present, because grain lands are much more easily rack-rented than garden lands.

This important point explained.

134. This point deserves a few special words, as it is one of very great importance. The cultivator of grain lands requires to expend comparatively a small portion of his capital and labor in raising his produce, which comes to hand within a few months, or at furthest within the year; whereas the cultivator of a garden has not only first of all to erect a substantial fence around his ground, and to maintain it in good order to keep out cattle, but he has to wait a period of from six to ten years, in the case of the ordinary garden products of Malabar, before his garden begins to yield him any return, and even then it takes some years more to bring the trees into full bearing. During all these years of waiting the garden cultivator's annual expenses are quite as heavy, if not heavier than those of the grain cultivator. The grain cultivator will have reaped from six to twelve or even twenty crops off his land before the garden cultivator has begun to realise any return at all from his outlay.

A grain land cultivator requires little or no capital.

135. Then, again, the grain cultivator's return from his land in Malabar, watered by the never-failing south-west monsoon, is easily and quickly ascertained from experience, and any one possessed of, or having credit enough to borrow, the *very small* requisite capital can rent it at rates which very often do not leave over to him even ordinary cooly hire. The garden cultivator's liability to loss from lightning, high winds, and disease is, on the other hand, very great during all those years of waiting, while his crop is coming to maturity. These elements of uncertainty in garden crops, and the additional important fact that if the trees are neglected the produce at once falls off, operate to keep down the rents of gardens.

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* Nos. 330, 917, 918, 920, 973, 975, 1104, 1106, 1107, 1248, 1249, 1282, 1283, 1303, 1341, 1376, 1384, 1522, 1524, 1527, 1533, 1542, 1573, 1850, 1943.

† No. 914.

136. Long experience has taught many of the *Janmis* that they cannot rack-rent gardens as they can grain lands. If a rack-rent is imposed, the cultivator's efforts are directed towards getting as much as possible out of the garden while putting back into the soil as little as he can. Gardens require lavish care and attention to keep them in good order, and a tenant can ruin a garden if so minded. Hence, at the next letting the *Janmi* finds to his cost, if he reflects at all on the subject, that the rack-renting of gardens does not pay.

If gardens are rack-rented the cultivators can ruin the gardens.

137. This is the reason why the cultivators in the coconut garden belt of the district and in parts where the areca tree flourishes, are so much better off than the grain land cultivators in the interior, and this affords, I think, a very sufficient explanation of why it is that the great bulk of the complaints come from the grain-producing portions of the district.

The above reasons explain why the garden cultivators are better off than the grain land cultivators.

138. The main grievances of the garden cultivators are directed towards the inadequacy of the rates given for improvements. Once the garden is brought into full bearing and the improvements are paid for, the *Janmi's* income at once begins to dwindle away, unless he gives his tenant liberal terms. Many do not see their true interest in this matter, and hence it comes about that directly a garden comes into full bearing, the garden begins to deteriorate and the produce to diminish. This goes on till a point is reached when the *Janmi* is perforce obliged to give the garden to an improving tenant at a very favorable rent. He improves it, his improvements are bought up, and again the weary round of deterioration sets in.

The garden cultivator's complaints relate chiefly to the inadequacy of the customary rates paid as compensation for improvements.

139. I think the true policy of Government in this matter is to encourage the formation of small gardens by small holders, who shall be securely left to gather the fruits of the trees they plant. The formation and up-keep of a garden call into play the very qualities which should be encouraged in small holders: for no one can successfully undertake such a task without exhibiting, in a high degree, thrift, industry, and foresight. Almost any one who can hold a plough and guide the cattle can rent grain lands, for he can borrow the seed and the implements if he has none of his own, but to form and maintain a garden requires the exercise of the best qualities of mind and body.

The true policy of Government is to encourage small gardens.

Thrift, industry, and foresight required from garden cultivators.

Any cooly can rent grain lands.

140. The following table abstracted from the Statistical Register (Appendix IV, Columns 136 to 215) shows the length of time during which the families of the present actual cultivators have held their lands:—

Length of possession by actual cultivators.

The Tenure on which held.	Immemorial.		Above 30 years but not immemorial.		Under 30 years, but for or above 12 years.		Under 12 years.		Not reported.		Total.	
	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.
I. Permanent tenures with or without rent ..	88	78	87	54	4	7	15	17	..	..	194	156
II. (*a*) Tenures with advances secured on the land, but without rent, not liable to renewal fees at fixed intervals ..	1	1	32	4	10	1	7	..	..	..	50	6
II. (*b*) Do. do. liable to renewal fees at fixed intervals	..	...	3	6	3	3	9	2	..	..	15	11
III. (*a*) Tenures with advances secured on the land, and with rent, not liable to renewal fees at fixed intervals. ..	2	..	3	1	4	..	8	4	..	..	17	5

The Tenure on which held.	Immemorial.		Above 30 years but not immemorial.		Under 30 years, but for or above 12 years.		Under 12 years.		Not reported.		Total.	
	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.	Wet or Dry lands.	Gardens.
III. (*b*) Tenures with advances secured on the land, and with rent, liable to renewal fees at fixed intervals ..	87	43	1,348	1,066	286	388	358	358	..	..	2,079	1855
IV. Mortgages with or without rent for definite or indefinite periods ..	..	..	48	18	74	25	277	56	..	..	399	99
V. (*a*) Leases for 12 years or more	18	10	224	359	55	219	50	263	..	..	347	851
V. (*b*) Leases for more than 1 and less than 12 years	38	13	699	493	398	269	610	405	..	..	1,745	1,180
V. (*c*) Leases for one year or at will	83	58	574	222	806	240	2,483	478	.. 68	.. 13	3,946 68	998 13
Totals ..	317	203	3,018	2,223	1,640	1,152	3,817	1,583	68	13	8,860	5,174
Per-centages ..	3·6	3·9	34·1	43·0	18·5	22·3	43·1	30·6	0·7	0·2	100	100
	520		5,241		2,792		5,400		81		14,034	
Per-centage ..	3·7		37·3		19·9		38·5		0·6		100	

The largest proportion of grain land cultivators have held their lands for less than 12 years.

The next largest proportion of them have held over 30 years.

Whereas these proportions are just reversed in the garden cultivators.

141. The general results may be thus stated. The largest proportion (over 43 per cent.) of the wet or dry land cultivators have held possession of their lands for less than 12 years. The next largest proportion of them (over 34 per cent.) have been in possession for over 30 years. Whereas in regard to the garden cultivators these proportions are exactly reversed; 43 per cent. having been in possession over 30 years, while over 30 per cent. have held their lands for periods under 12 years.

Of those who have held over 30 years, the largest number are *Kāṇakkār*.

Who with the *Kāṇam* intermediaries probably represent the old protector guild, now slowly passing away.

This also explains why there are so many leaseholders who have been in possession over 30 years.

142. Of those who have held their lands over 30 years, the largest number, both of wet and dry land cultivators and garden cultivators, are holders under the ordinary *Kāṇam* tenure; these and the *Kāṇam* intermediaries represent probably the nucleus of the old protector guild, which is now slowly passing away. It is natural enough that the lands, which they retain longest under the new *régime*, should be their gardens and house sites. Many of them, too, as the petitioners represent, have of late been compelled to exchange their *Kāṇam* tenures for leases, and this, too, accounts for the large numbers who now hold under leases, and who have been in possession for periods extending over 30 years.

Of the short lease-holders of grain lands, the largest proportion hold from year to year or at will.

The grain land cultivators, a thriftless class, their rents being determined by the competition of coolies.

143. Finally, it will be noticed in regard to the wet or dry cultivators, who have been in possession for periods of less than 12 years, much the largest proportion of their holdings (2,483 out of 3,817) is of lands held on year to year leases. The grain land cultivators must always be a thriftless class so long as rents are determined by the competition of coolies. Population is fast increasing in all the taluks (except Wynād), (*see* Appendix No. XIX); and if matters go on as at present, it is only a question of time how soon all the grain crop cultivators will have descended to the wretched level of pauperised cottiers, to which class many of them already belong.

Section III—Tenures.

The chief points regarding tenures noticed by the petitioners.

144. The chief points brought to my notice by the people were connected with—

	Sub-Section.
1 Evictions	1
2 Rents and renewal fees	2
3 Compensation for improvements ..	3
4 Various miscellaneous matters ..	4

Sub-Section 1—*Evictions.*

Statement of Eviction and Rent Suits, Appendix XI.

145. In Appendix XI, will be found a statement of eviction and rent suits compiled from the registers of all the Civil Courts since 1862, excepting the Small Cause Courts. In the latter, the suits instituted relate to rent alone.

The figures arranged quinquennially.

146. The figures have been arranged in quinquennial periods, except for the period 1877—1880, for which the averages relate to only 4 years. I considered it inadvisable to include the figures for 1881 in the returns, as the appointment of a Special Commissioner must have, to some extent, affected litigation, and it was best to show how the matter stood before there was any talk of Government interference.

Number of suits instituted.

147. The number of suits instituted was as follows :—

	Average annual Number.
1862—1866	.. 2,039
1867—1871	.. 2,547
1872—1876	.. 3,974
1877—1880	.. 4,983

Number of persons against whom eviction decrees were passed.

148. The number of persons against whom decrees of eviction were passed was as follows :—

	Average annual Number.
1862—1866	.. 1,891
1867—1871	.. 3,483
1872—1876	.. 6,286
1877—1880	.. 8,355

Number of persons against whom rent was decreed, except in Small Cause suits.

149. The number of persons against whom rent was decreed (exclusive, of course, of those sued in the Small Cause Courts) was as follows :—

	Average annual Number.
1862—1866	.. 1,473
1867—1871	.. 2,549
1872—1876	.. 4,314
1877—1880	.. 6,498

The general results stated.

150. Put into other words, the suits are now nearly $2\frac{1}{2}$ times more numerous; the number of persons against whom evictions are decreed annually are now about $4\frac{1}{2}$ times more numerous; and the number of persons against whom regular suits for rent are decreed are now about $4\frac{1}{2}$ times more numerous; than they were 20 years ago.

About 1 in every 20 cultivators has now a decree passed against him annually for eviction.

In Pālghat Taluk the number of evictions annually decreed is twelve times larger than it was 20 years ago.

151. About 1 in every 20 cultivators has now a decree for eviction passed annually against him, and the rate of increase has more than quadrupled itself in 20 years. In Pālghat alone the number of evictions annually decreed is now 12 times more numerous than it was 20 years ago.

152. How many of these eviction decrees were really executed it is impossible to say. To have obtained this information,

Impossible to say how many of the eviction decrees were executed.

The eviction suit is resorted to merely to raise rent.

it would have been necessary to examine the execution records of the suits, and the object in view did not seem to make it worth while to undertake such a ponderous task. In a considerable proportion of the suits, the parties usually come to terms after the eviction decree has been passed. The suit, in fact, is resorted to as a mode of raising the rent, and it is usually only when the tenant refuses to consent to an increase of rent that the decree is executed.

The parties to this litigation have been distinguished.

153. Of the parties to this litigation a distinction has been drawn in the statement between Hindus, Muhammadans, and others.

Plaintiffs.

154. Of the plaintiffs, the per-centages of the different classes were as follow :—

—	Hindus.	Muhammadans.	Others.	—
1862—1866	81	19	..	=100
1867—1871	82	18	..	=100
1872—1876	81	19	..	=100
1877—1880	80	20	..	=100

Defendants.

155. Of the defendants, there were similarly :—

—	Hindus.	Muhammadans.	Others.	—
1862—1866	64	35	1	=100
1867—1871	63	36	1	=100
1872—1876	63	37	..	=100
1877—1880	61	38	1	=100

Defendants against whom ejectments were decreed.

156. Of those against whom ejectments were decreed, there were similarly :—

—	Hindus.	Muhammadans.	Others.	—
1862—1866	65	35	..	=100
1867—1871	66	34	..	=100
1872—1876	64	35	1	=100
1877—1880	62	38	..	=100

Defendants against whom rents were decreed.

157. And of those against whom decrees for rent were passed, there were similarly :—

—	Hindus.	Muhammadans.	Others.	—
1862—1866	66	33	1	=100
1867—1871	67	32	1	=100
1872—1876	66	34	..	=100
1877—1880	62	38	..	=100

The per-centages of cultivators arranged in the same fashion.

158. The precise per-centages of cultivators (*see* Appendix XVII) were in census 1871 :—

Hindus	72·13
Muhammadans	27·80
Europeans, &c.	0·07
	100·00

The Muhammadans more than others are thus forced to raise their rents, and this has increased in the last decade;

but the other classes also are largely forced to raise rents.

It looks, therefore, as if the landlords were obliged to use the Courts more against Muhammadans than against their other tenants, in order to force up the rents, and as if this tendency had somewhat increased in the last decade, but, at the same time, it is clear that this engine is not (as very often supposed) directed against the *Māppiḻas* in particular.

Special causes of Eviction noticed by petitioners,

159. Of the special causes alleged for eviction or impending eviction, a great many were brought to my notice. A few of these will now be noticed—

(a) from ancestral holdings,

(*a*) Many* complained of eviction or impending eviction from ancestral holdings. The light in which such evictions present themselves to the petitioners is not to be correctly judged of from the European stand-point of property. These individuals' ancestors had, it has been shown, regarded themselves as fixtures on the land, provided they dealt justly by the *Janmi*; and the special hard feature of eviction in their eyes is that the *Janmi* having departed from the just and customary law in endeavouring to raise the "rent," should also have a right to turn them out if they refuse to comply with his unjust demands.

(b) on demand,

(*b*) Then, again, the Courts having made a law that henceforth *Kāṇam* leases were to run for twelve years, as already explained above, many† of the petitioners thought it most unjust that the *Janmis* should have power by express contract imported into their *Kāṇam* leases to turn them out "on demand" and before the expiry of the twelve years' term. As already observed, the Courts hold that express contract over-rides custom or even Court-made law itself.

(c) just as the trees begin to bear,

(*c*) The hardship of eviction, when only the customary improvement rates are paid, has already been dwelt upon. Some‡ of the petitioners pointed out, and with good reason, how unjust it was to evict just as the trees in their gardens began to bear fruit.

(d) after due payment of renewal fees.

(*d*) Some§ complained that they were evicted after having paid the usual fees for renewal of their leases. But it may be observed that the payment of renewal fees is now, if proved, accepted by the Courts as evidence of a contract to renew a lease, specific performance of which may be claimed as of right.

(e) Not permitted to reap crops on the ground, &c.,

(*e*) Some‖ complained that when they were evicted, they were not permitted to reap the crops they had sown. Others¶ that they were harshly evicted during the heavy south-west monsoon season.

(f) for refusing to permit their trees to be cut by Janmis, &c.

(*f*) The grievance of others** was that they were evicted for refusing to permit the *Janmis* to cut down trees, belonging not to the *Janmis*, but to themselves, or for refusing to allow the *Janmis* to pluck their fruit, or for having themselves cut down their own trees.

(g) for refusal to surrender their own Janmam lands.

(*g*) Many†† complained that they were evicted or threatened with eviction, because of their refusal to surrender to their *Janmis* lands of which they had themselves acquired the *Janmam* right, or of which the *Janmam* right belonged to other persons. One‡‡ was evicted from land he had received from his

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* Nos. 30, 37, 50, 61, 84, 142, 251, 303, 328, 331, 340, 401, 437, 890, 932, 962, 1027, 1177, &c.

† Nos. 54, 60, 62, 73, 119, 127, 161, 162, 163, 182, 221, 237, 241, 319, 348, 389, 446, 541, 548, 552, 683, 739, 971, 1018, 1019, 1020, 1051, 1311, 1312, 1313, 1314, 1315, 1316, 1491.

‡ Nos. 507, 562, 603, 604, 605, 606, 765, 932, 2027. § Nos. 22, 160, 168, 877, 892, 916.

‖ Nos. 39, 838, 1384, 1849, 1997. ¶ Nos. 450, 500, 622, 644, 662, 684, 1142, 1237.

** Nos. 37, 230, 992, 1010, 1114, 1302.

†† Nos. 383, 567, 678, a very hard case, 679, 686, 689, 745, 989, 1005, 1033, 1037, 1039, 1044, 1055, 1068, 1078, 1079, 1080, 1081, 1082, 1083, 1328, 1335, 1372, 1373, 1519, 1609, 1710, 1955, 1956, 2015, 2113, 2173.

‡‡ No. 1033.

Janmi on lease, and in lieu of *Janmam* land surrendered at his *Janmi's* bidding. The sale of Government escheat lands to the tenants has been a very questionable boon to some of them, for no *Janmi* of the old stamp can tolerate with equanimity the existence of a small *Janmi* near his lands. *Nambūtiri Brāhmans* in particular are very intolerant of such intrusion on what they consider their "birthright."

The sale of Government escheat lands to tenants has been a very questionable boon.

(*h*) Some* were threatened, it was said, with eviction for their audacity in presenting petitions to me; others† were evicted for refusing to contribute to the expenses of weddings and other ceremonies in the *Janmi's* house, for refusing‡ to surrender improvements on land, and for refusing§ to exchange *Kānam* tenures for *Verumpāṭṭam* ones. One‖ for presenting such a small *Nazzar* as one rupee on asking permission to celebrate a wedding. Another¶ for building a comfortable house, and one** was threatened,—a remote contingency however,—for refusing to give up a wild pig.

(*h*) for sending petitions to me, &c.

(*i*) The eviction†† of widows and orphans, and especially of *Māppiḷḷa* widows, and more especially of *Māppiḷḷa* widows left with young families, is a constant and very serious source of complaint. Whatever else they are, or are not, there is no denying that the poorer *Māppiḷḷas* are an industrious and frugal class, laboring late and early to provide a sufficiency of food for their wives and children, to whom they are much attached. The death of the bread-winner before his family has grown up seems to entail at present, *as a necessary consequence*, the ruin of the family, and the confiscation of all the improvements they have made on the soil of their holding; for there is always some one near at hand and ready to take advantage of the widow's helplessness. A few rupees are given to the *Janmi*, or better still, perhaps to the *Janmi's Kāryastan* or agent, and the widow finds herself embarked on litigation in the Courts. The result is always the same: eviction follows as a matter of course; and the Court costs usually eat up a large portion, or the whole of the claims she has on the lands. Several of these cases are reported,—*see* in particular No. 217,—from the locality where the Māppiḷḷa outbreak was reported as imminent in December 1880. The injustice thus occasioned is, to my thinking, one of the most powerful incentives of the *Māppiḷḷa* outrages. There is a constant under-current of petty wrongs to be redressed,—wrongs for which no doubt the people hold the Government, through the Courts, mainly responsible. One of these petitioners, an aged widow, was accompanied to my camp at Pallipuram by one or more of her sons, lads just reaching maturity, and one of them, who was evidently laboring under very strong emotions as the tale of their wrongs was unfolded, finally stepped forward to me, and said, in a voice and manner which betrayed his excitement and in strange contrast with their usual reserved demeanour, "Sir, if any one comes to turn our children out of the house, we won't consent to it." A decree had just been passed depriving the widow of the last bit, including the dwelling house, of what had once been an extensive holding, paying Rs. 125 as Government assessment. In the *Māppiḷḷa*

(*i*) The eviction of widows and orphans, and especially of *Māppiḷḷa* widows, and more especially of *Māppiḷḷa* widows left with young families, is a most serious source of complaint.

The death of the bread-winner seems at present to entail as a necessary consequence the ruin of the family.

How this is done.

Several of these cases reported from the locality where the *Māppiḷḷa* outrage was imminent in December 1880.

A most powerful incentive to outrage.

The people hold the Government, to a great extent, responsible for these wrongs.

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* Nos. 278, 473, 1105, 1237, 1251, 1526, 1532. † Nos. 909, 910, 2,000. ‡ Nos. 973, 974.
§ Nos. 38, 1527. ‖ No. 968. ¶ No. 1011. ** No. 1365.
†† Nos. 57, 111, 117, 126, 134, 146, 153, 170, 190, 193, 217, 239, 262, 354, 357, 402, 440, 577, 841, 874, 876, 891, 1006, 1095, 1638, 1708, 1771, 1917, 1918, 1924, 1934, 1960, 1993, 2074, 2140, 2156.

outrages, Volume I, p. 125, two of the fanatics belonging to Attan Gurikal's gang are there described as having belonged to a family of "respectable blood," but "utterly bankrupt," which state of things had been brought about "by suit and otherwise in their early life." Had the impending outrage really occurred in December 1880, I have but little doubt that the youth, who addressed me in the terms described, could have been persuaded, without much trouble, to join the ranks of those who would have courted death on that occasion.

Sub-Section 2—Rents and Renewal Fees.

The actual cultivator's payments for his occupancy right.

160. Turning to the Statistical Register (Appendix IV), it will be seen (columns 222 to 225) that the actual cultivator has in most cases—

(*a*) to find a rent for the man above him;
(*b*) to recoup himself the interest on the advances he has made on the security of the land;
(*c*) to recoup himself during the period of his lease the principal sums paid as fines on entry or renewal, *plus* interest thereon; and
(*d*) to pay the Government assessment on his holding.

The total of these four items is what he pays in return for the gross produce of his holding.

Extremely difficult to say what the gross produce of any bit of land really is.

The steps taken to overcome, as far as possible, this difficulty.

161. Now it is an extremely difficult thing to say what the gross produce of any particular bit of land really is, because so many things, and adverse seasons in particular, come in to disturb the calculations. To remedy this and to reduce, as far as possible, the chance of error, I did not accept any *one* person's estimate or figures, but in the case of each piece of land examined estimates were taken from—

(1) the proprietor;
(2) the cultivator; and
(3) the village officials;

as to what the land would produce in—

(4) a good year;
(5) a bad year; and
(6) an average year.

Conclusions drawn from each of the three independent estimates.

The average thus arrived at by each of the three individuals consulted was then accepted, and the subsequent calculations based thereon. So that for each piece of land there are three independent estimates, and the conclusions drawn are shown separately (columns 226—234) for each of those estimates.

The share of produce left over is compared with the share the cultivator is entitled to under Mr. Rickards' scheme.

This was the best standard to adopt.

162. The share of produce left over for the cultivator's maintenance and expenses is compared in these columns 226—234 with the share to which he would be entitled if Mr. Rickards' scheme of distribution approved by Lord William Bentinck's Government in 1804, were in force. This seemed to be the best standard to adopt, because, in all revisions of the Government land assessment, Mr. Rickards' principles have been followed, with one or two small exceptions. Full details of this scheme of distribution of the produce will be found in Chapters III and VII of Appendix II and in Appendix III, but it will suffice here to state generally that Mr. Rickards' plan was to reserve one-third of the net produce calculated in an arbitrary way in the case of wet lands, and one-third of the gross produce in the case of gardens for the actual cultivator, and to divide the balance in the proportion of—

Mr. Rickards' reserved (⅓) one-third of the net produce for the cultivator.

60 per cent. to Government 40 „ „ to the proprietor	in the case of wet lands, and
50 „ „ to Government 50 „ „ to the proprietor	„ „ gardens.

Mr. Rickards mistook the facts on which his principles were based.

The gross produce in his scheme was not the real gross produce.

Mr. Græme's estimate of what these deductions amounted to.

163. Mr. Rickards, there can be no doubt, mistook the facts on which his principles were based, and the gross produce which he accepted as the basis for his calculations was, in reality, not the gross produce at all, but the gross produce less the customary harvesting and threshing and storing, and other expenses in the case of wet lands, and less the customary deductions for various items in the case of gardens. In the case of wet lands, Special Commissioner Mr. Græme calculated these customary deductions at as much as 20 per cent. of the gross produce.

In adopting Mr. Rickards' standard, I accepted the sense in which he seems to have understood it.

This materially affects the results which would otherwise have shown still more conclusively how much the ancient customary sharing of the produce has been departed from.

164. In adopting Mr. Rickards' standard, however, for comparison, I accepted the sense in which he seems to have understood it, and the gross produce figures in columns 219 to 221 are, or ought* to be, the actual gross produce figures without deductions of any kind. This, of course, materially affects the results of the comparison, and if I had adopted what Mr. Græme found to be the actual truth regarding Mr. Rickards' "gross produce" as understood by the natives, from whom he adopted it, the result would have been to show still more conclusively how much the ancient customary sharing of the produce has been departed from.

On only two of the Estates examined in the low country all parties are agreed that the cultivators are still enjoying their full customary shares.

165. Subject to the above remarks, I find, then, that, excluding twelve estates in the abnormal taluk of Wynād, on only two estates, out of the ninety-eight examined, all parties are agreed that the cultivators are receiving the full shares of produce set aside for them by Mr. Rickards, when fixing the principles of the Government land assessments. These two estates belong to—

(1) Mr. Murdoch Brown, of Anjarakandi in Chirakkal Taluk; and

(2) The Kāttumadath Nambūtiri in Ponnāni Taluk.

One other, that of—

On one other, this is perhaps also the case.

(3) Tirumāndhamkunnu Dēvasvam in Walluvanād both the cultivators and the village officials are agreed that the cultivators are enjoying the full share set aside for them, but the proprietors are not of that opinion. In this case, probably the proprietors have adhered to the old customary mode of calculating the "gross produce" of the lands as described by Mr. Græme, although clear instructions to the contrary were issued.

On all other Estates, including one under the Court of Wards, the cultivator's share of produce has been most seriously encroached upon.

166. On all other estates in the low country, including one now being managed by the Court of Wards (Kavalappāra Minor, No. 83) and two belonging to the Cochin Sirkar (Nos. 76 and 93), the shares of produce set aside for the cultivators by Mr. Rickards' scheme have been encroached upon most seriously in most cases, and most outrageously in some.

This can be proved in the most ample way from the returns, but it will probably suffice if the special cases in the Petition Register are referred to.

167. This can be proved in the most ample way from the returns received and compiled in the Statistical Register (Appendix IV), but it will probably suffice if I direct attention to the special cases† which occur in the Petition Register (Appendix XXII). I may add that latterly special complaints of excessive rent were not inquired into, as it seemed to me that the evidence already on record amply proved what it was necessary should be known.

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* I have reason to think, however, that notwithstanding the reiterated orders on this point, several of the estimates of the "gross produce" are framed in the ancient customary method.

† Nos. 24, 62, 91, 95, 122, 152, 205, 221, 225, 252, 253, 258, 339, 831, 981, 1070, 1078, 1079, 1100, 1102, 1116, 1147, 1150, 1165, 1233, 1235, 1250. *See* also Nos. 306, 1153, 1216, 1217, 1414, 1618, 1723, 1793, 1817, 2029, and 2077.

On Estates where the *Kānakkār* are exceptionally well off, the cultivators have no better terms.

168. On certain of the estates inspected (notably on those belonging to the Cochin Sirkar, Nos. 76 and 93 in the Statistical Register, Appendix IV), the *Kānakkār* are never evicted, and hold their lands on exceptionally favorable terms, and yet the actual cultivators under these *Kānakkār* are no better off than on other estates where they hold direct from the *Janmis.*

Kānakkār fail to pay off their debts in the twelve years, and have to borrow again to pay their renewal fees.

169. As regards renewal fees, something has already been said in para. 110 above. It is perhaps a convenient arrangement for the proprietors to be able to collect the bulk of their rents once only in twelve years, and then in lump sums, but it is most ruinous for the cultivator. At renewal time his credit is at its lowest, and yet he has to find money in large sums. No wonder, then, that 24 and 36 per cent. are quite common rates of interest paid by him. If he borrows, say, Rs. 100, to pay his renewal fees at the beginning of his term of twelve years, and has to pay 24 per cent. thereon, he will have to recoup himself in the sum of Rs. 256 if he pays off principal and interest regularly, and extinguishes the debt by the end of the twelve years. Many,* however, fail to do this. and at the end of the twelve years, they find themselves still with a load of debt upon them, obliged to borrow again.

A worse economical system for the cultivators could hardly be conceived.

And it is being extended to other tenures.

170. A worse economical system for the agricultural classes could hardly be conceived. I have explained in paras. 105 to 110 above how this system sprang up. Erroneous views as to the origin of the *Kānam* tenure had much to do with it. It has now been developed, chiefly by the action of the Courts, into an outrageous system of forehand renting. And, what is worse,† it is being extended to the *Verumpāṭṭam* tenure also.

The surrender of land "on demand" again alluded to.

171. Another grievance in connection with renewal fees is that the system is extending of entering in *Kānam* deeds an express clause providing that the land shall be returned "on demand" before the expiry of twelve years for which the lease would usually run. Such clauses are recognised‡ and enforced by the Courts with this grave injustice to the cultivator that all the expenses of the inevitable Civil suit are taken out of the sum he had borrowed, at great inconvenience, to satisfy the landlord's demands.

The exceptional estates in Wynād considered.

172. Turning to Wynād, which is an exceptional taluk in many respects, I observe that the cultivators on the twelve Wynād estates examined have considerable shares of the produce left over for them, over and above the one-third reserved by Mr. Rickards' scheme, and yet many of them (240 out of 530) are in debt (columns 251—267 of Appendix IV). The reasons alleged by them for incurring debt are as follow :—

	Persons.	Persons.	Per-centage.	Per-centage.
1. Land or house improvements ..	48		16·3	
2. Purchase of stock	30		10·2	
3. Excessive rents	3		1·0	
4. Excessive renewal fees	1		0·3	
5. Bad seasons	43		14·6	
6. Loss of stock	19		6·5	
7. Accidents	4		1·4	
8. Miscellaneous	2		0·7	
		150		51·0
9. Wedding and other ceremonies ..	22		7·5	
10. Sickness	13		4·4	
11. Family maintenance	87		29·6	
12. Trade losses	15		5·1	
13. Miscellaneous	7		2·4	
		144		49·0
Total ..		294		100

* Nos. 1440, 1489, 1622, 1636, 1640, 1701, 1793, 1948, 2118. † *See* No. 1301.
‡ Nos. 54, 60, 62, 73, 119, 127, 162, 182, 221, 237, 241, 319, 322, 348, 389, 446, 541, 548, 683, 739, 971, 1018, 1019, 1020, 1051, 1311, 1312, 1313, 1314, 1315, 1316, 1491.

The high wages of laborers in Wynad.

173. The largest number of these have evidently been living beyond their means. The wages of laborers in Wynād are higher than elsewhere, owing to the demand for laborers on the European Coffee Estates, and Mr. Rickards' allowance for cultivation expenses is, under such circumstances, much too low. Having to pay these higher wages to laborers, the position of the cultivators in Wynād is, therefore, really not so favorable as it at first sight appears, having regard only to the shares of produce left over for them.

The other reasons given.

174. But they have no grievances (to speak of) in regard to excessive rents or excessive renewal fees. Sickness accounts for their indebtedness to a much smaller extent than one would have supposed probable, considering the feverish character of the climate. A considerable number (43) complain of the bad seasons, which have undoubtedly affected the coffee-planting industry injuriously.

Many have borrowed to improve their holdings.

175. And, on the other hand, many (78) have run into debt to improve their lands and houses and stock. The per-centage who have incurred debt for this purpose in Wynād is 26·5 against 16·1, the per-centage in the whole district.

The Wynād cultivators well off, due to climate which keeps down population and to the high wages of laborers.

176. On the whole, I conclude that the cultivators in Wynād are well off, although some of them are in debt. The climate which keeps down population and the high wages paid to laborers, who will, for this reason, not consent to take less than the wages of daily laborers if they lease land from the proprietors, are the chief causes of this desirable state of things.

Sub-Section 3—Compensation for Improvements.

Even a trespasser is entitled to compensation for improvements if turned out of his holding.

177. I have already alluded, when treating of the *Kuḻikkānam* tenure in paras. 111 to 120 above to the fact that it is now the recognised law of Malabar that any one who makes improvements on his holding, even if he be only a trespasser, is entitled to be compensated for his improvements if turned out of his holding. The action of the Courts in preserving and extending this ancient custom has been very beneficial, except on one point, which will be considered presently.

The classification of improvements.

178. The improvements to which a tenant is thus entitled to compensation are—

(1) *Kuḻikkūr*, *i.e.*, trees and growing produce.
(2) *Veṭṭukānam*, *i.e.*, improvements in reclaiming land and converting it into fields.
(3) *Chamayam*, *i.e.*, houses, buildings, wells, tanks, walls, &c.

(1)—Kuḻikkūr.

The very important fact that tenants are permitted to sell or subdivide their holdings.

179. I have already said (para. 116) that the only theory which seems to account for the very important fact that *Kānakkāran* and *Verumpaṭṭakāran* have both alike the right to sell, or subdivide, or sublet their holdings, is that these rates were intended as compensation only for the *pād* (authority's) share of produce, and as in no sense whatever compensation for the cultivators customary share of the produce.

The *Kānakkāran* is still allowed to sell or subdivide his holding independently of the *Janmi's* wishes.

180. To this day the *Kānakkāran* may sell his *Kānam* holding to the highest bidder, and the purchaser steps into his predecessor's shoes: the *Janmi* has no right of veto on the purchaser, who thus becomes his tenant; all that is necessary being that seller and purchaser shall by the deed called *Inakkumuri* (*see* Glossary to Appendix I) give him notice that such a transaction has taken place. The failure to give this notice does not, however, invalidate the sale.

Even a tenant-at-will is entitled to do the same thing.

181. More than this, even a tenant-at-will, as the Courts now view the *Verumpāṭṭakāran*, who has no term specified in his lease deed, is at liberty, down to the present day, to part with his holding to a purchaser, and even to subdivide it and to lease or to sell portions of it.

These conditions quite inconsistent with European ideas of property in the soil.

182. Such sales or subdivisions or sublettings, either of the *Kāṇam* right or of the *Verumpāṭṭam* right, are quite inconsistent with European ideas of property in the soil, and can only have sprung from a society organised, as I have tried to describe it in Chapter VI, Section 6 of Appendix I and in other parts of that Appendix.

Probable that the three classes were formerly at liberty to deal as they liked with their respective shares of produce.

183. The fact really was, I believe, that in the old days *Janmi*, *Kāṇakkāran* and *Verumpāṭṭakāran* were each and all and severally entitled to sell or divide or deal with their respective customary shares of the produce of the land independently, to a great extent, of each other. The *Janmi* was lord paramount, and the men below him were not likely to introduce into the *Janmam* holding persons in any way inimical to the *Janmi*, nor were such persons likely to accept a position under a hostile *Janmi*.

Much convenience in this arrangement.

184. Granted this, it will be seen that there was much convenience in the arrangement, whereby each of the parties interested in the soil was at liberty to deal with his customary share of the produce as he liked. It was, in particular, advantageous to the cultivator, for he always got, if he wished it, the full market value of his improvements.

The customary *Kuḻikkūr* rates are probably the rates at which the customary share of produce due to the *pād*, or authority, was paid for and prices of produce have risen enormously of late.

Hence dissatisfaction at customary compensation rates being paid, more especially in North Malabar.

In South Malabar the Courts have departed extensively from the customary rates in awarding compensation, but on no formally sanctioned plan.

185. Bearing in mind, then, that the customary rates for *Kuḻikkūr* improvements are, in my opinion, only the rates at which the *Janmi* purchased the *pād's* customary share of produce or *pāṭṭam*, and that prices of all kinds of produce have risen enormously in recent years, it is not to be wondered at that much dissatisfaction* exists against the continuance of the payment of compensation on evictions at the present improvement rates. This dissatisfaction, however, is more widespread in North than in South Malabar. The reason for this became at once apparent when I ascertained that the North Malabar Courts have generally, but not always,† adhered to the old customary rates, while the Courts in South Malabar acting each on its own ideas have not only departed extensively from them, but have extended them largely. This departure and this extension do not seem to have been in any way regulated or formally sanctioned.

The *Kuḻikkūr* rates now vary enormously.

186. The *Kuḻikkūr* rates now vary enormously (*see* Appendix V). For the coconut tree alone, there are seventy-four different rates varying between a minimum of (10) ten pies and a maximum of (14) fourteen rupees. Similarly for arecas there are twenty-eight rates varying from a minimum of (1) one pie to a maximum of (4-8-0) four rupees and eight annas. And for jack trees there are 45 rates, varying between (1) one pie and (40) forty rupees. The rates were undoubtedly all very low originally; the highest rate for a full-grown and full-bearing coconut tree being about (2) two fanams, or about eight annas (the present maximum rate in Kurumbranād) to nine annas and a few pies (the present maximum rate reported from Kōṭṭayam Taluk).

The inadequacy of these low rates.

The ridiculousness of these rates as compensation for the value of the tree is manifest when it is remembered that bearing trees,—good, bad, and indifferent,—produce on the average at least twenty-four nuts per annum, and the produce has been selling at over Rs. 20 per 1,000 nuts for a long time past. These rates are barely more than one year's purchase of the produce of the average trees, and in the case of superior trees, which have been well cared for, they are a great deal less than one year's purchase of the produce. The same remarks apply to areca and jack trees and pepper vines, which, with coconuts, are classed as the *Nāl ubhayam* or four chief products of the gardens.

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* The Numbers of the petitions complaining of the inadequacy of the rates will be found under the various headings of "Improvements" in the Index to the Petition Register, and need not be here repeated.

† Where they have departed from the old customary rates in awarding compensation, the departure has been much more cautious and less liberal than in the South.

187. But the Courts have, in South Malabar and in a small portion of the Kurumbranād Taluk in North Malabar, largely extended the garden-products, or improvements for which compensation can now be claimed on eviction, and the abstract at the end of Appendix No. V shows that there are now forty-six other products, for which compensation is allowed on eviction. And the native officers consulted would like to see the list still further extended, so as to include sixty-six products, forty of which, however, are already allowed for in some parts of the district but not in others. In addition, therefore, to the *Nāl ubhayam* or four chief products, there are at present seventy-two others, which either are or ought to be, in the opinion of the judicial and village officers, allowed for in all cases of eviction from garden lands.

The Courts in South Malabar, particularly, now award compensation for other products than the *Nāl ubhayam* above mentioned.

The native officers consulted would like to see the list still further extended.

188. Malabar ought to be essentially a horticultural district: it is true that the rice-lands still yield by far the largest proportion of Land Revenue, but such lands as can be profitably turned into rice-fields are nearly all already taken up, and the Government must look in future to an extension of the gardens for any increase of revenue. The land available for this extension is very great.

The Government must look, in future, to the increase in gardens for increase in Land Revenue.

189. The number of products, for which compensation ought to be allowed, is likely, therefore, to be still further indefinitely increased if a liberal land policy is adopted; because the district will grow almost anything, and even now fresh products are finding a place on the list (*e.g.*, caçao), though the people at present have few inducements to grow them.

The number of products for which compensation should be awarded is likely to be still further extended.

190. Now there is no point which has been more clearly forced upon my notice in the present inquiry than this. That the produce of garden-lands depends largely upon the amount of care taken of the trees. With the smallest neglect, the trees fall off in their produce rapidly and most seriously. What may, therefore, be adequate improvement rates for certain trees one year may be much too high *for the same trees* even in the year following.

The produce of trees varies enormously according to the care devoted to them, and this renders it impossible to fix proper rates to apply to all trees.

191. The difficulties, therefore, in the way of constructing an equitable table of *Kuḻikkūr* improvement rates, to hold good even for a limited period, are, I think, insurmountable; because, first, of the ever-increasing list of products; and, second, and more especially because of the difficulty of constructing the table so as to suit all cases, or even the great majority of cases, which are as various as the characters and temperaments of the men who cultivate the gardens.

The construction of a table of compensation rates to hold good even for a limited period impracticable.

(2)—Vettukānam.

192. As regards *Vettukānam* improvements, the rates are regulated by the ordinary wages of laborers in the neighbourhood. If the quantity of land excavated is fairly measured and full wages at fair rates of work given, the outlay is recovered, but that hardly represents the full value of the improvements. They may be worth a great deal more or a great deal less according as the work done and the manner of doing it have been judicious or the reverse.

Regulated by the ordinary wages of laborers.

The improvements may be worth a great deal more or a great deal less than the actual outlay.

(3)—Chamayam.

193. Finally, as regards *Chamayam* improvements, the usual rule in most parts of the district is to allow for the price of materials only, and not for the wages of laborers employed on the work. This rule may have worked well enough in the old days, when no man was by

Materials only allowed for—and no allowance for laborers.

TRIVANDRUM ...

custom allowed to put* tiles on his house, unless that happened to be one of his "birthrights;" but the fact that the Courts have not generally extended the rule so as to give the full cost of buildings, &c., is complained of very generally now-a-days. In some of the Southern Courts hard and fast rules have recently been laid down for reducing the cost of the materials when they have been in use a certain number of years, but no rules can adequately provide for such cases, because the value of a building depends as much upon the amount of care that has been bestowed upon it as upon its original cost, and upon the suitability of the building for the purposes for which it was constructed, rather than upon the kind of materials of which it is made.

Objections to the existing rules.

The actual facts regarding existing improvement rates under all three classes.

194. The actual facts regarding existing improvement rates under all three classes as reported to me will be found detailed in Appendix V.

Example of how the rules are worked at present by the Courts.

195. In order to illustrate the way in which the Courts now award compensation for improvements, the records of several cases were examined, and in the Petition Register (Appendix XXII) will be found full details of one† case so examined. Examples‡ of the same kind might have been repeated indefinitely, but I thought it would probably suffice if the full details were given in one typical case.

Details of the cases.

196. In this case§ a family of *Māppillas* had admittedly improved their holding by planting it up and by erecting the necessary buildings for a large family (14 individuals). The following were the facts:—The origin of the suit was in some obscurity; an unstamped receipt was produced, which may or may not have been genuine, but the plaintiff alleged arrears of rent. The plaintiff stated that he had tendered to the defendants the money secured on the land and the value of improvements which he estimated at Rs. 34. The 1st defendant claimed Rs. 8,100 as the value of the improvements. There was no dispute as to title, and the suit resolved itself into a question whether the defendants ought to be paid Rs. 34 as estimated|| by the plaintiff or Rs. 8,100 as claimed|| by the defendants. Three Court Commissioners in succession were sent to value the improvements, viz., 1st Commissioner, the 4th Clerk of the District Munsif's Court; 2nd Commissioner, a Vakeel of the Court; 3rd Commissioner, the 7th Clerk of the Court. The judiciousness of selecting a subordinate clerk to revise the estimate made by his superior in the same office is open to remark. The estimates of the three Commissioners were respectively—

Three Commissioners sent.

Their Estimates.

		RS.	A.	P.
1st Commissioner	.. .. ..	983	6	9
2nd "	.. .. ..	1,073	9	9
3rd "	.. .. ..	1,472	0	8

The estimate of the 3rd Commissioner was confirmed by the Court, with the exception of one item amounting to Rs. 69-8-0. From this it is clear that the tender of Rs. 34 by plaintiff, as the value of the improvements, was most grossly inadequate, and yet the decree allowed to plaintiff the whole of his costs in the suit, which were to be paid by 1st defendant, who had besides to pay his own costs, and the other defendants had also to bear their own costs.

Tender of the value of improvements before the filing of the plaint the veriest farce.

197. This tender of the value of improvements before the filing of the plaint seems to be the veriest farce; the fact of the tender or no tender is, so far as the records of this and of other cases have been examined, never gone into, and, as matter of fact, if the tender is made, it is

* It was not till A.D. 1759, that is, till the Honorable Company had been settled for nearly a century on the Coast, that they obtained leave from the Zamorin to tile their Factory at Calicut. The agreement is short, and may be here conveniently entered:—

"*Translate of the Zamorin's Grant for covering the Factory at Calicut.*

"I permit you to cover your Factory at Calicut with tiles this 24th October 935, Malabar Style (A.D. 1759), which done, carry on your contracts in the best manner, and I hope you will assist me at any time I may have occasion for it."—*From the Diary of the Tellicherry Factory, dated 14th December 1759.*

† No. 1155. ‡ *See* in particular Nos. 38, 401, 1705. § No. 1155.

|| The discrepancy between the sum offered and the sum claimed is often much greater. Petitioner No. 212 was offered Rs. 8 for improvements worth, according to his estimate, Rs. 28,000.

invariably of a sum utterly inadequate*. In this case, it will be observed the fee given to the 1st Commissioner was Rs. 25 to value improvements which the plaintiff estimated at Rs. 34 only.

The delays in the return of the three Commissioners.

198. The Commissioners were respectively allowed by the Court the following number of days for preparing their estimates:—

		DAYS.
1st Commissioner	.. ..	12
2nd "	.. ..	44
3rd "	.. ..	10

They actually took—

1st Commissioner	.. ..	61
2nd "	.. ..	69
3rd "	.. ..	20

A most fruitful source of corruption.

The delays are a most fruitful source of corruption, for it is notorious that the chief use of them to the needy officials, who at present do this commission work, is to test the capacity of the parties' resources.

The details of the estimates given in parallel columns in the Petition Register.

199. The details of the three estimates have been given in parallel columns in the Petition Register; the points to be noted are—

Discrepancies in the actual facts certified by the three men.

(1) the huge discrepancies between the actual facts as certified by the three men. Where one found 13 teak plants, another found 26. One found 51 *pūvam* trees, another 20. One found only 3 palmyra trees and plants, while another found as many as 113. One found 46 coffee plants, another 108. One found 34 talipot palms, another 70. One found 16 coconut trees and plants, another only 10. One found 13 mango trees and plants, another as many as 61. One found things, such as pepper vines, blackwood, and various other trees, which the others either did not discover, or did not mention. Two cow-sheds, one water-shed, and three wells, which are objects not very easily overlooked, were omitted by one or other of the three men. It may be thought that discrepancies such as these should have been pointed out to the Court and remedied at once, but it must be remembered how little independence there is in the agents at the bars of such Courts, and how illiterate are the vast majority of the litigants.

Discrepancies in their valuations where the facts agreed.

(2) the huge discrepancies between the estimates of value put upon the several items, even when the Commissioners were tolerably agreed as to the facts, for example, one estimated the value of 22 jack trees and plants at Rs. 68, another finding 20 jack trees and plants valued them at only Rs. 21-8-0. One found 23 tamarind trees and plants and valued them at Rs. 17-14-0, another finding the same number, valued them at only Rs. 2-7-6. A stone wall was, one would have thought, an item regarding the value of which there could not be much room for differences of opinion, but the three estimates for it were respectively Rs. 106, Rs. 23-13-7, and Rs. 42-10-0. Finally, as regards the claims of the defendants in the suit subordinate to 1st defendant, the estimates again vary largely, and some of them (defendants 4, 13, and 14) are allowed nothing by the 2nd Commissioner.

The first point shows lax discipline in the Court, but for the second it is extremely difficult to suggest a remedy.

200. The first of the points noticed in the last para. is clear evidence of a lax state of discipline in the Court in question, but the second of the points, the huge discrepancies between the estimates, even when the Commissioners were tolerably agreed as to the facts, is one for which it is extremely difficult to suggest a remedy without altering the whole of the existing system.

Further illustration of this latter point (Appendix XX).

201. In further illustration of this latter point, I would call attention to a short Appendix (No. XX), in which I have entered into full details regarding another eviction suit in a different Court. Here, again, the difficulty cropped up of deciding accurately what valuation should be put upon improvements, the facts of which were accurately known.

* *See* on this point Petition No. 217.

202. The fact is, as any one can learn by putting the matter to a small practical test, that unless one has special knowledge not only of the particular garden, but of the particular trees in it, and of the care and labor expended on each particular tree, and of the mode of cultivation adopted, one is quite abroad as to the valuation which ought to be put upon *Kuḻikkūr* improvements. Instances have been known of a single coconut tree (on which exceptional care had been bestowed) bearing as many as 700 coconuts per annum, while the average yield of a full-bearing tree in an average garden is as low as 24 to 25 nuts per tree per annum. Between those extremes there are innumerable types and varieties, and the difficulty is by any hard and fast rules, such as the Ernād District Munsif has recently promulgated (para. 4, Clauses (*a*) and (*b*) of Appendix XX) to provide for all the cases that occur, granting even that the facts can be accurately ascertained.

If the facts are accurately known, the valuation will still vary enormously and no satisfactory table of rates can be constructed.

203. A thing is worth just what it will fetch and no more, and this seems to me the only safe and equitable rule for guidance in dealing with improvements on the land falling under any of the three classes of improvements.

A thing is worth just what it will fetch and no more is the only safe rule.

Sub-Section 4—Various Miscellaneous Matters.

204. The first point requiring notice is the change in the security to purchasers of *Kāṇam* holdings. In former times, when every matter was regulated by custom, when the *Kāṇakkāran's* share of the produce was exactly known, when the deduction to be made from the *Kāṇam* amount and the fees to be paid on renewal were also precisely regulated by custom, the *Kāṇam* holding had a real value; and even now, when custom no longer regulates these matters, large sums are occasionally given for a *Kāṇam* holding. What the purchaser buys in such a case as the latter however is the reputation for leniency of the modern *Janmi* or landlord who has supplanted the "water-contact-birthright" holder of former days, and not any secure footing in his *Kāṇam* holding. The power of ouster conferred upon the *Janmi* has completely nullified the security which used to prevail. Petitioner* was evicted two years after having purchased the *Kāṇam* right with the *Janmi's* sanction. On the other hand, another petitioner† not having obtained the *Janmi's* sanction, and not having succeeded in getting his deed renewed, lost Rs. 250, the sum he paid for the *Kāṇam* right. The insecurity is also dwelt upon by other‡ petitioners.

Insecurity to purchasers of *Kāṇam* rights

205. The complaints of breaches of contract to renew the *Kāṇam* holdings were very numerous. This may be explained thus. Rents have gone up so greatly of recent years that tenants' resources and tenants' credit are both alike pretty nearly exhausted. The system of renewal, as already explained, is a system of forehand renting, requiring large sums to be paid down on entry or renewal. But with exhausted resources and exhausted credit, the tenants cannot readily raise such sums. It takes time, frequently years, for a tenant to scrape together sufficient to pay his renewal fees, and these, moreover, are frequently not paid in lump sums but in driblets. On being pressed, the tenant pays something towards account. This payment the Courts now hold as evidence of a contract to renew, of which the tenant can claim specific performance; but the tenant is usually not provided with the necessary receipts to prove his payments, and so he can get no relief from the Courts. The reason why he cannot produce his receipts is, that frequently (as will be noticed further on) the landlord refuses to give them, and the tenant, if he presses for his right, excites his landlord's wrath. Complaints of this sort were very numerous, as will be seen on reference to "breach of contract to renew" in the Index to the Petition Register. The numbers of the petitions need not be here again entered.

Breaches of contract to renew *Kāṇam* Deeds.

* No. 221. † No. 897.

‡ Nos. 1140 (in this case Rs. 2,000 was paid for the holding) 1741, 1748, 1765, 1793, 1796, 1804, 1833, 1834, 1835, 1867, 1890, 2033, 2119, 2149, 2169.

Buffaloes, cows, &c., given as renewal fees.

Money for renewal fees also raised by mortgage of the Kānam right, sometimes to the Janmi himself.

206. Such things as buffaloes, cows, timber, trees, &c., are given* towards making up the required amount of renewal fees. And frequently at the time of entry or renewal the *Kānam* holding is mortgaged sometimes† to the *Janmi* himself, and sometimes‡ to others for the balance of renewal fees that the tenant has been unable otherwise to pay or get credit for.

After the renewal fees have been paid, the deed is withheld sometimes on various pretexts.

207. Having paid his renewal fees, one would think there could be no other obstacle between him and final completion of the transaction, but the petitioners say otherwise, and the deed is frequently withheld till the landlord's agent has been bribed§ and on various other pretexts.‖

Having got his deed, the tenant is frequently called on to pay a variety of extras over and above the rental, and fined on non-compliance.

208. Having finally obtained his deed, which is usually specific enough as to the time when and the amounts in which the rent is to be paid, one would further expect that the tenants would be left in peace during the currency of their leases. This, however, is not the case, and under the headings of—

Extra Payments,	Illegal demands,
Fines,	Produce, and
Gifts.	Subscriptions,

in the Index to the Petition Register will be found numerous instances in which they were expected to contribute in many various ways, over and above their specified rental, to the landlord's comfort, and were fined if the commands issued to that end or any other were disregarded. The numbers of the petitions will be found under the above headings in the Index, and need not be here repeated.

These extra demands were doubtless made in former days, but the positions of the parties have changed since then.

209. It is perhaps unnecessary to point out that the *Janmi* in levying these contributions of sorts is adhering to the practice of his ancestors, but then *in former days* his share of the produce of the land was small and strictly regulated by custom. *Now* it is, in the majority of cases, a rack-rent. If he departs from the customs of his ancestors in levying a rack-rent, he should not, in justice, expect tenants to be bound by other customs mainly devised for exhibitions of mutual good-will and attachment.

One instance of a Janmi objecting to his tenant's using his land to the best advantage, and this may increase.

210. Such a thing as objecting to the profitable and legitimate use of his land by the tenant has hitherto been unknown; the tenant has been left free to make the best possible use of the land, but petition 1765 is an instance of a *Janmi* raising objections in this direction. If the *Janmi* had all along been a *dominus*, one could understand this having been done; but it would be disastrous for the country at large if this example were to be extensively followed in the future, and if the *Janmi* were to be permitted to interfere with and cripple the tenant's operations. The Courts have assigned him too complete a control over his tenants, and he now sometimes insists¶ on terms which amount to a virtual expropriation of his tenant's improvements.

The Kānakkāran does not behave any better to his sub-tenants.

211. Nor is it the *Janmi* alone who thus acts, for the *Kānakkāran*** in his turn evicts or threatens to evict the men below him if they fail to comply with his terms. And he takes†† fees from them just as the *Janmi* does from him, and sometimes forces them to surrender‡‡ portions of their holdings.

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* Nos. 964, 1433, 1872, 1893, 1900, 1954.
† Nos. 260, 1525, 1764, 1987.
‡ Nos. 1591, 1596, 1602, 1738, 1789, 1806, 1833, 1834, 1835.
§ No. 200.
‖ Nos. 1219, 1594, 1596, 1670, 1683, 1814, 1815, 2010, 2018, 2035, 2178, 2188.
¶ No. 1793.
** Nos. 478, 901, 906, 1129, 1818.
†† No. 1811.
‡‡ No. 2135.

212. It is clear that the actual cultivators would be no better off under a *Kāṇakkāran* than under a *Janmi*. Some of the *Kāṇakkār* themselves say they are now no better off, and others* of them that they are worse off than simple lessees (*Verumpāṭṭakār*), and this is put forward as a specific grievance. The expectation that they should be better off is reasonable enough when regard is had to the position they occupied at the time of the British accession; but I question if their position was improved that they would use it wisely looking to the facts set forth in paras. 168 and 211 above.

The actual cultivators would be no better off under *Kāṇakkār*.

The *Kāṇakkār* say they are as badly off as simple lessees.

213. The complaints† that the tenants' own trees are cut by the *Janmi*, that eviction is resorted to if they refuse, that they are prohibited from cutting their own trees, and that if they cut them they are obliged to pay excessive charges for them are numerous. As already observed, the tenant of a garden of fruit-trees has much in his power; the landlord can hardly interfere if the trees are neglected, for the neglect is not always visible to the eye. He is all the more jealous, therefore, if such a step as cutting down the trees is resorted to, and he frequently interferes with the cutting of them, even when the act is harmless. The rack-renting system has broken down confidence in the fair dealing of the parties, and so long as it continues, there will be constant bickering, each party trying to take advantage of the other. Petition No. 110 is a clear case of a *Janmi* putting forward an unjust claim to a tree cut by the tenant for such a necessary purpose as rebuilding his house which had been burnt down.

Numerous complaints of the illegal appropriation of tenants' trees.

214. The last point that requires notice is the effect of the ruling of the Courts that the *Kāṇam* amount was intended as an advance made for the security of the rent. This point has been noticed already in connection with Deed No. 34 in para. 146 of Appendix I and in para. 110 above; but something more requires to be said, and I would beg to call attention to the remarks in the Petition Register on petition No. 217. In that case no less than (19) nineteen years' arrears of rent were decreed against an unfortunate *Māppiḷḷa* widow left with a young family to bring up. The most methodical of men with the best of appliances could hardly accomplish what this woman in her thatched hut, with hardly a box to keep her clothes in, was apparently expected to do, namely, to produce her receipts for the last nineteen years' rent. It was a monstrous farce to expect it of her.

The effects of the Court ruling which views the *Kāṇam* advance as made to secure payment of the "rent."

The case of petitioner No. 217 referred to.

A poor *Māppiḷḷa* widow expected to produce the receipts for rent for nineteen years.

215. It must not be supposed that this was a solitary case, for *see* petitions Nos. 151, 436, 1276, and 1535; and I was kindly furnished by the District Munsif of Angādipuram with a statement (Appendix XXI) of thirty-eight cases, showing to what extent this ruling of the Courts had been acted upon in the year 1880 in that one Court in recovering rent, which would otherwise have been forfeited under the Statute of Limitations. It seems that it is quite common to set off from five to fourteen years' arrears of rent against the tenants' *Kāṇam* claims on the land. A point which will have to be dealt with presently is the difficulty in the way of a tenant getting a receipt for his rent at all, but having got it, it seems preposterous to expect of him that he shall keep it for half his lifetime, or in default be liable to be called on to pay his rent all over again.

This is not a solitary case.

See Appendix XXI.

It is quite common to set off from five to fourteen years' arrears against the *Kāṇam* advances.

Tenants have great difficulty in getting receipts at all, and it is preposterous to expect them to keep receipts for half their lifetime.

216. Moreover, this rule, it will be seen, directly discourages punctual payment of their rents by tenants, for what tenant will pay rent punctually if he is put under such liabilities,

The rule, moreover, directly discourages punctual payment of rents.

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* Nos. 1125, 1126, 1127, 1128, 1397, 1401, 1431, 1436, 1447, 1453, 1458, 1492, 2158.

† Nos. 230, 981, 1099, 1101, 1114, 1117, 1118, 1119, 1159, 1162, 1165, 1166, 1213, 1214, 1215, 1217, 1397, 1400, 1401, 1402, 1436, 1447, 1450, 1458, 1467, 1555, 1592, 1594, 1606, 1610, 1633, 1691, 1733, 1742, 1808, 1818, 1820, 1897, 1982, 1996, 2022, 2039, 2040, 2046, 2047, 2171, 2172.

CHAPTER V.

(c) PROPRIETORS AND THEIR AGENTS.

Section 1—*Personal.*

The names of proprietors and agents most frequently mentioned, &c., alone indexed.

217. It is unnecessary to say much about the persons whose names, from having been frequently mentioned in the petitions or for other reasons, have had places assigned to them in the Index to the Petition Register. These names do not, of course, embrace all against whom complaints were made, but only a small proportion of them. It would have served very little purpose to have indexed all who were mentioned.

A typical *Janmi* of the present day.

218. In the Petition Register (Appendix XXII) will be found a description* of a typical *Malayāli* landlord (*Janmi*) of the present day taken down from his own lips. His property lay scattered in little bits over 18 to 20 Amṣams or parishes; he himself had visited his properties in only six of the *Amṣams*, so that of his property in 10 or 12 of the *Amṣams* he had absolutely no personal knowledge. He could not give me a list of the persons actually cultivating his lands: and therein, I may add, he was not singular, for the same thing was observed when the Statistical Register (Appendix IV) was being prepared. The only way in which it was found possible to obtain correct lists of the persons actually in possession of the lands was to send for the persons who were responsible to the landlord for the rent of each piece of land examined, and to obtain from them lists of the persons (if any) who owed rent to them, and so on, until eventually the names of the actual cultivators were obtained. Asked regarding subletting, his precise words were: "So long as I get in my rents, I don't concern myself with what my tenants do in the way of subletting their lands." He was unable, moreover, to give me any details as to the alleged assistance he gave his tenants in reclaiming waste or in other ways. He had, he said, about Rs. 50,000 out in unrecovered rents. In respect of the following:—

(*a*) the scattered location of his property;
(*b*) his personal ignorance of it in detail;
(*c*) his personal ignorance of the persons who actually cultivate it; and
(*d*) his personal unconcern (so long as his rents come in regularly) as to the subletting of his lands;

he is a typical *Malayāli* landlord. And in respect to—

(*e*) his unconcern as to the welfare of his own tenants; and
(*f*) his tenants' indebtedness to him for arrears of rent;

he is fairly representative of the bulk of the landlords in Malabar at the present time.

All he looks to is to get a good return on his investment.

219. To put the matter shortly, he had invested his money in land, and all that he looked to was to obtain a good return on his investment.

This was not a *novus homo*.

220. He was not a *novus homo*, for the family (high class *Nāyar*) was an ancient one, and the records show ("List of the Koomkee or auxiliary *Nāyars*" in 1790-91, Voucher No. 44 to Joint Commissioners' report) that his predecessors raised a considerable force to assist the Zamorin in the final struggle between Tippu Sultan and the British.

* No. 570.

This state of affairs brought about by the action of the Courts in regarding the *Janmi's* status as that of a European landlord.

221. How the above state of affairs has come about can, I think, be easily gathered from what has been said above (Chapter IV, paras. 113—123). The *Janmi's* interest in the produce of his lands was, until the British Courts altered it all by regarding him as a European landlord, a distinctly limited interest, and the people below him were free to deal, as they thought fit, with their customary shares of the produce. No other theory will account for the fact that all tenants, and even tenants-at-will, or from year to year (as the Courts now regard the *Verumpaṭṭakār* holding on leases with no terms specified therein), are still at liberty to sublet or subdivide or sell their holdings at pleasure.

A landlord of a different type and a different religion.

222. Turning to a landlord of a different type and of a different religious persuasion, the Quilandy *Tangal* (an Arab priest) may be selected. His predecessor, it appears, in 1779 founded a mosque and pilgrim caravanserai at Quilandy, and to endow it he obtained, with the assistance of the Nabob of the Carnatic, voluntary engagements from the Muhammadan and Hindu merchants of certain villages in Tinnevelly, and also from some in Malabar to pay certain fees on each cooly-load or bullock-load of merchandise passing through the villages. Regulation XII of 1803 put a stop to the practice of levying these fees. The fact that the income of the mosque had failed, and that he had to depend on voluntary offerings, was brought to the notice of the authorities. After a good deal of correspondence* between the Board of Revenue and the Collector, the Government eventually (29th February 1828) sanctioned an annual grant of Rs. 1,800 for the support of the mosque and establishment. In 1841 the question of money-allowances to religious institutions came under consideration, and after a good deal of further correspondence,† extending over some years, it was decided (20th November 1848) to hand over to the *Tangal* certain Government (escheat) lands in lieu of the money-grant. These lands consisted of 169 pieces of rice-land, nurseries and upland ground, and 17 gardens measuring in all 306 *Cawnies* and 828 *Kōls*. The Government revenue from them at the time was, land assessment Rs. 1,176-10-1 with proprietor's share (*Janmabhōgam*) of Rs. 623-5-11, making in all Rs. 1,800, the amount of the money-allowance sanctioned in 1828.

He received Government land yielding Rs. 1,800 per annum.

The actual cultivators are now paying annually Rs. 5,846-13-11.

223. Numerous‡ petitions were received regarding the mode in which the *Tangal* was managing these lands, so I decided to have them examined and to have the results embodied in the Statistical Register (Appendix IV, Estates Nos. 56, 57, 58). It appears, then, that the actual cultivators are paying no less than Rs. 5,650-3-4 annually as rent, and Rs. 196-10-7 more as interest, &c., on sums advanced on entry, making a total of Rs. 5,846-13-11. Of this amount Rs. 3,014-13-11 is paid direct to the *Tangal* by the actual cultivators, and a further sum, which unfortunately has not been ascertained, is paid by the intermediaries who have sublet the remaining lands for Rs. 2,832 to sub-tenants. The *Tangal* is, therefore, deriving from the land, without any exertion on his part, a sum which is not less than Rs. 1,200, and may be as much as Rs. 2,500 to 3,000 in excess of the amount of Land Revenue assessment *plus* proprietor's share (Rs. 1,800) handed over to him by Government in 1848. It would be outside the scope of the present inquiry to consider whether the Government intended that he should be able thus to enhance the Rs. 1,800 assigned to him in 1848, so the fact need not be further alluded to than as a marked illustration of how rents have gone up in recent years.

He has raised his rents Rs. 1,200, or perhaps as much as Rs. 3,000 since he got the land from Government.

Did Government intend that he should have this power?

Important to notice what the effect of this enhanced demand has been as it is of general application.

224. But as to the balance (Rs. 2,832) of the actual cultivator's payments, it is important to notice what the effect of the *Tangal's* enhanced demands has been. That balance goes, as already said, into the pockets of the tenants of the Tangal, who have managed to sublet portions, or the whole of their holdings to others. The tenants

* 3rd August 1826, 20th January, 24th May, 2nd June, 21st June, 18th July, 26th July, 29th July, and 20th December 1827.

† 10th and 24th June, 14th September, 7th October, 20th November 1841, 15th June, 30th July 1846, 22nd March 1847, and 17th October 1848.

‡ Nos. 14, 15, 47, 52, 307, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 394, 395, 549, 575, 751, 1093.

on feeling the pressure from above have done the wisest thing they could for their own interests *in subletting the worst portions of their holdings to sub-tenants who have, of course, to pay an extreme rack-rent.* The *best* portions of the holdings, on the other hand, are naturally retained by the tenants in their own possession, and for these they pay rent direct to the *Tangal.*

Where there is an intermediary between the *Janmi* and the cultivator, the same results follow a demand for enhanced rent.

225. This is a very important point, and one, moreover of general application, for wherever there is an intermediary between the *Janmi* and the actual cultivator, the same thing happens as soon as pressure is brought to bear on the intermediary. He secures himself by letting out his WORST lands to any of the needy coolies (doubly more numerous, it is said, in Malabar than elsewhere), who are always ready to take it on any terms that may be offered to them, and he thus retains his BEST lands at a comparatively easy rent. The pressure of the *Janmi's* demands, therefore, is not evenly distributed *downwards:* it is GREATEST on the actual cultivators of the WORST descriptions of lands, who are least well able to bear it.

The pressure is greatest on the tenants of the worst lands, who are least well able to bear it.

Other specific complaints against this man.

226. The other complaints brought against this particular individual were as follow:—

(1) He collects his rents himself, and, therefore, they have to be paid in lump sums instead of in easy instalments like the Government Land Revenue.

(2) When he comes on these rent-collecting tours, he is accompanied by six or seven attendants, and the cost of feeding the party during the visit devolves on the tenants,—a very serious addition to their rents if the money is not ready to be paid directly the party arrives.

(3) In addition to the rent, goats and oil have to be provided on these occasions, and a stipulation is entered in the leases to this effect. On the introduction of the Local Fund Cess (Act IV of 1871), the *Tangal* levied the one anna per rupee cess from his tenants, and again, when the Local Fund Cess was doubled in 1878, he collected the additional anna per rupee not on the rent, but on the rent *plus* the one anna rate already being levied, *plus* the stipulated provision for goats and oil.

(4) He has not levied the extra payments of sorts demanded by other *Janmis* on the occasions of births, weddings, &c., except on one occasion, when the tenants were called on to subscribe Rs. 1,000 towards the cost of a wedding.

Unnecessary to say much about the other names mentioned.

227. As regards the other names mentioned in the Index, it is unnecessary to say more than that the description of the typical *Janmi* above given applies to all of them, and to one or two of them with perhaps greater force than to others. One of them has earned for himself the distinction of being nick-named "the master of oppression," but the character of his land agent has probably had more to do with this than his own proceedings. This latter individual is described in one* of the petitions as "unkind, unjust, envious, avaricious, pugnacious, the foremost of oppressors, and the hater of other's prosperity." I sent for the man, and, so far as I could judge, he had merely been pushing his master's *Janmam* rights, as now understood by the Courts, with more than ordinary zeal. He had, at the same time, of course, not failed to neglect his own.

The *Janmis* still try to exact an extreme degree of obedience from their tenants.

Petition No. 299 is a case in point, and shows the difficulties experienced in getting at the facts.

228. The *Janmis* as a body, but more particularly the *Nambūtiri Brāhmans*, still endeavour to exact an extreme degree of obedience from their tenants, and are not always over-scrupulous as to the means they adopt for attaining this end. Petition No. 299 is a case in point, and is, moreover, illustrative of the immense difficulties that lay in my way of obtaining information. The *Janmi*, whose lands lie in the Amsam in which the *Māppilla* outrage occurred in September 1880, was so incensed at his *Māppilla* tenants complaining to me (of exorbitant rent) that he set the machinery of the Criminal Courts to work to punish them; and had it not been that the tenants again came to me and complained of this injustice, he would doubtless have succeeded in his efforts, for the local officials were on his side. Had the tenants

* No. 1144, an anonymous one.

in this case been Hindus, he would most probably have effectually closed their mouths in other methods, by excommunication or otherwise.

Janmis or their agents sometimes make fraudulent gains from tenant's ignorance and helplessness.

229. Another point, which has a personal bearing, is that the *Janmi* or his land agent frequently takes advantage of his tenant's ignorance and helplessness to make illegal profit out of him. This is illustrated in petition No. 836, where a *Janmi* interfered in a most singular way, but to his own advantage as arbitrator between his tenant and a third party, and in petition No. 1848, will be found the details of a most extraordinary case of fraudulent dealing, in which a family was robbed of the whole of its property. Some* petitions deal with another mode in which *Janmis* seek their own profit by creating or taking advantage of dissensions in the families of their tenants. Other cases will be noticed under the heading of Frauds in Section 3 of this Chapter dealing with estate management.

It is not meant that a general charge of fraudulent dealing can be substantiated against all Janmis and agents.

230. I must not, however, be understood as thinking that a general charge of fraudulent dealing could be substantiated against all *Janmis*, for there are many who, I am most fully persuaded, endeavour to do their duty honestly to their ignorant tenants. The Zamorin Mahārāja Bahādūr, for instance, is about the best abused *Janmi* in the Index list, while, from intimate personal knowledge of his character, I feel certain that he is quite incapable of such unworthy acts as are laid at his door.

Unfortunate for the large proprietors that their property lies scattered about in little bits.

This gives the hungry agents opportunities for oppression.

231. It is, however, most unfortunate for him, and the same remark holds good of all the big landlords, that his property is so scattered in little bits over the face of the country that he himself can exercise only to a very small extent any personal control over the enormous mass of details of land management with which his subordinates have to deal. It is the class of hungry land agents employed on these big estates, who are chiefly to blame for the injustice which so frequently overtakes the tenant.

Statement showing the classes of the *principal Janmis.*

232. The subjoined statement was prepared from information received from every parish (*Amṣam*) in the district. All holders of at least 100 pieces of land in a parish (*Amsam*) were classed as *principal Janmis*, and figures are also given regarding the number of parishes (*Amṣams*) in which they so hold over 100 pieces of land.

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* Nos. 1071, 2034, and 2122.

STATEMENT showing the Number *of the Principal Janmis* of Malabar.

N.B.—No one holding less than 100 pieces of land in any one *Amṣam* is included.

—	CHIRAKKAL.		KŌTTAYAM.		KURUMBRA-NĀD		WYNĀD.		CALICUT.		ĒRNĀD.		WALLUVA-NĀD.		PĀLGHAT.		PONNĀNI.		COCHIN.		DISTRICT.		Remarks regarding the largest Holders.
	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	Number.	Average number of Amsams in which they hold at least 100 pieces of land.	
Rajas	3	6·3	2	2·0	6	2·5	..	..	10	4·4	6	9·8	14	5·2	11	6·2	9	3·0	..	..	61	4·9	The Zamorin holds over 100 pieces of land in 27 *Amṣams*, and the Kiḷakke Kōvilakam Rāja in 18 *Amṣams*.
Brāhmans, Malabar.	7	1·0	..	..	7	1·1	..	..	11	1·0	62	1·3	111	1·5	30	2·3	142	1·1	..	..	370	1·3	Olappamanna Manakkal Nambūtiripad holds over 100 pieces of land in 9 *Amṣams*; Varikkumanchēri Manakkal Nambūtiripad in 9 *Amṣams*; and Pūvuḷḷi Manakkal Nambūtiri in 8 *Amṣams*.
Brāhmans, Canara.	7	1·6	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	7	1·6	Varanakōt Nārāyaṇan Nambūtiri holds over 100 pieces of land in 4 *Amṣams*.
Brāhmans, East Coast.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	1·0	..	..	..	..	2	1·0	
Nāyars (including Vāriyars.)	17	1·2	18	1·2	44	1·4	23	1·2	34	1·4	43	1·5	54	1·6	52	1·7	54	1·1	..	..	339	1·4	Kutiravaṭṭat Nāyar holds over 100 pieces of land in 11 *Amṣams*; the Nilambūr Tirumulpād in 9 *Amṣams*; and the Kavaḷappāṛa Nāyar (Minor) in 8 *Amṣams*.
Tiyars	..	..	2	1·0	1	1·0	..	..	1	2·0	..	..	..	..	..	..	4	1·0	..	..	8	1·2	Kallingal Chandu Kuṭṭi Mūppan holds over 100 pieces of land in 2 *Amṣams*.
Other Hindus ..	..	..	..	..	..	..	3	1·0	..	..	..	..	..	..	1	1·0	..	..	..	..	4	1·0	
Mappiḷḷas ..	7	1·9	10	2·0	8	1·4	..	..	..	..	2	1·6	..	..	..	..	10	1·3	..	..	37	1·6	Chovakkāran Māyan Kuṭṭi Eḷayāvu holds over 100 pieces of land in 7 *Amṣams*; Chovakkāran Putiapurayil Bāvāchi in 4 *Amṣams*; and Chovakkāran Orkatiri Taḷatta Bappan in 4 *Amṣams*.
Europeans ..	1	1·0	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1·0	
Total ..	42	2·2	32	1·5	66	1·5	26	1·1	56	2·2	113	3·5	179	2·8	96	2·4	219	1·5	..	..	829	1·7	

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The largest estates are held by *Rājas*.
Next the Canarese *Brāhmans* and *Māppillas* of North Malabar.
Next come the *Nāyars* scattered evenly over the district.
After these come the *Nambūtiri Brāhmans*, whose estates lie chiefly in Ernād, Walluvanād, and Ponnāni Taluks.

233. The class of *principal Janmis* who hold the largest estates are the *Rājas*, of whom there are 61. The next classes are *Canarese Brāhmans* and *Māppillas*, of whom, however, there are but 7 and 37, respectively. Next come the *Nāyars*, a large body (339) pretty evenly distributed, as one would expect, over the whole district, except Cochin. After them come the *Malayāli Brāhmans* proper, also a large body (370) with estates lying chiefly, as one would expect, (*see* Appendix I, paras. 39, 60, 61 and 63) in Ernād, Walluvanād, and Ponnāni.

Considerable numbers of Minor *Janmis*.

Some may have been counted more than once.

234. Of *Minor Janmis* holding less than 100 pieces of land in any one parish (*Amṣam*), there are considerable numbers, and the following statement illustrates their distribution throughout the district. Some of them and some of the *principal Janmis* also may, however, hold less than 100 pieces of land in more than one parish (*Amṣam*), and may consequently have been counted more than once. To have ascertained their precise numbers, it would have been necessary to have obtained detailed lists of names, and to have then examined them carefully to ascertain what names were mentioned more than once. The difficulties even then in attaining accuracy would have been great.

STATEMENT showing the Number *of Janmis (Principal and Minor)* of Malabar.

N.B.—Only those holding at least 100 pieces of land in any one *Amṣam* are classed as *Principal Janmis*.

Taluks.	Minor Janmis, Number.	Principal Janmis, Number.	Total.
Chirakkal	4,650	42	4,692
Kōttayam	349	32	381
Kurumbranād ..	3,109	66	3,175
Wynād	343	26	369
Calicut	4,852	56	4,908
Ernād	1,387	113	1,500
Walluvanād	2,152	179	2,331
Pālghat ..	3,319	96	3,415
Ponnāni ..	3,424	219	3,643
Cochin	50	..	50
Total ..	23,635	829	24,464

Section II—Religious Institutions.

The *Janmam* of a large extent of land also belongs to endowed chuttrums and Hindu temples.

235. A large extent of the land in Malabar belongs to endowed *chuttrums* or caravanserais (*Brahmasvams*) founded for the benefit of itinerant *Brāhmans*, and to Hindu temples, and the fact that the Government have elsewhere been moving in the direction of placing such institutions under the management of Committees led to a pretty widespread belief at the opening of this Commission that my task was somehow connected with the landed property of such institutions, and numerous facts were brought to my notice regarding them.

Some of the *chuttrum* lands mismanaged.

236. The *chuttrums (Brahmasvams)* chiefly belong to private individuals or have been made over by Government to private individuals for management. The usual treatment* of tenants on private lands is followed, rents have gone, or are going up. Complaints of mismanagement of such property were also made, but these seemed to me to be somewhat beyond the scope of my inquiry; at the same time, I may be permitted to remark that if the revenues of those institutions, which have been made over by Government to private individuals for management, are enhanced, the Government should take some steps to verify the fact that the increased revenues are properly applied.

* Nos. 1601, 1860, 1930, 1954, 1983, 1993.

237. As regards *Dēvasvams* (Hindu temples), the complaints were numerous of misappropriation of the landed property of such institutions. The numbers of the petitions on this subject will be found under "Misappropriation of property" in the Index to the Petition Register, and need not be here repeated.

Numerous complaints of the misappropriation of temple lands.

238. In former times it was considered to be incumbent on every family of any position to endow one or more temples. Brāhmanical influence was directed towards this end, for the chief benefits of the endowments were enjoyed by the *Brāhmans.* I have reason to think also that these endowments were also largely increased in a way not unknown in Europe, where the church reaped the benefit of such endowments, and in return guaranteed the safety of the endower against the might of some powerful adversary.

Formerly every considerable family endowed one or more temples.

239. But in all such cases the family of the original grantor retained a voice as *Urālan (see* Glossary in Appendix I) in the management of the endowed institution; and the property thereof and the institution itself have always been regarded more or less in the light of private property. The Courts, however, have of late shown a tendency to regard this species of property as held in trust for the objects of the endowment, and as such inalienable. This and the fear that Government intend to move in the same direction have perhaps driven the managers to adopt the tactics brought to light in these petitions. There can be no doubt that this species of property is being largely diverted in an under-hand way from its proper uses, and that not always to the benefit of the persons to whom it originally belonged.

But the grantor retained a voice in the management, and the land was looked on more or less as private property.

The Courts have shown a tendency to regard such lands as trust property.

Much of the temple land is being diverted in an underhand way from its proper uses.

240. Under such circumstances the natural consequences follow of neglect of ceremonies,* and of temples† and tanks† in ruins.

Consequent neglect of ceremonies, &c.

241. The following statement shows the number of the *principal Religious and Charitable Institutions* holding large estates throughout the district. It will be noted in regard to superior Hindu temples that the numbers are largest (as one would expect, Appendix I, paras. 39, 60, 61, 63) where the *Nambūtiri Brāhmans* settled most extensively. Hindu temples with large estates are comparatively rare in North Malabar.

Statement of such institutions.

Temples most numerous where *Nambūtiris* settled most extensively.

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* Nos. 147, 302, 1387. † Nos. 393, 949, 969, 1097, 1272, 1884, 1885.

STATEMENT showing the Number *of the Principal Religious and Charitable Institutions* of Malabar.

N.B.—None holding less than 100 pieces of land in any one *Amṣam* is included.

	CHIRAKKAL.		KOTTAYAM.		KURUMBRANĀD.		WYNĀD.		CALICUT.		ERNĀD.		WALLUVANĀD.		PĀLGHAT.		PONNĀNI.		COCHIN.		DISTRICT.		Remarks regarding the largest Holders.
	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	Number.	Average number of Amṣams in which they hold at least 100 pieces of land.	
Religious Institutions, Hindu, superior Castes.	16	1·2	1	2·0	9	1·0	11	1·0	6	1·0	29	1·3	61	1·2	43	1·8	64	1·1	..	..	240	1·2	Tiruvilvāmala *Dēvasvam* and Vadakkunāthan *Dēvasvam*, each hold over 100 pieces of land in five *Amṣams*.
Religious Institutions, Muhammadan.	..	..	..	..	..	..	..	..	..	..	1	1·0	..	..	..	..	..	..	..	..	1	1·0	
Charitable Institutions, Hindu, *Sattrams* and *Samūhams*.	..	..	..	..	..	..	..	..	..	..	3	1·0	1	2·0	1	3·0	2	1·5	..	..	7	1·9	Perumanatt *Sabhayōgam* holds over 100 pieces of land in three *Amṣams*.
Charitable Institutions, Hindu, *Uttupuras*.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	1·0	..	..	..	..	2	1·0	
Total ..	16	1·2	1	2·0	9	1·0	11	1·0	6	1·0	38	1·1	62	1·6	46	1·8	66	1·3	..	..	250	1·3	

Section III—Estate Management.

The great influence for good or evil of the land agents.

242. It became apparent to me, at an early stage in this inquiry, that the influence for good or evil of the *Kāryastans* or land agents employed on all large estates was very great. The estates are so scattered about in little bits here and there over the whole face of the country, that, as already alluded to in Section I of this Chapter (para. 231), the *Janmis* or proprietors can exercise very little personal control in the detailed management of their properties, and have to trust entirely to their land agents for the facts on which they base their conclusions. All their efforts are directed towards maintaining at head-quarters as perfect a system of accounts as can be devised, so that every tenant whose renewal term has arrived, or who falls into arrears with his *Michchāram* (rent), may be speedily brought to book.

Information called for regarding them.

Assistance received from certain native gentlemen.

243. Such a system, as a matter of course, places immense power in the hands of the land agents, and so it became necessary to inquire in some detail into their condition and antecedents as a body. To this end I issued a circular to a considerable number of the chief proprietors in all parts of the district, and I beg to bring prominently to the notice of Government the cheerful alacrity with which the following gentlemen responded to my call. It was a matter relating to their personal concerns, regarding which, if they had refused me information, nothing could have been said, so that their courtesy in affording me the information desired is all the more marked.

North Malabar ..
1. The Chirakkal Rāja of the ancient *Kōlattiri* family.
2. The Kadattanād Rāja.

South Malabar ..
3. The Zamorin Mahārāja Bahādūr of Calicut.
4. The Erālpād Rāja (the second Zamorin).
5. The Nilambūr Tirumalpād.
6. The Naduvat Subramanian Nambūtiripād.
7. The Āluvānchēri Tambrākkal.
8. The Pūvulli Mana Nambūtiripād.

An example of an estate and its management.

244. To give an idea of the nature of the duties which these land agents have to perform, it will be best to take a particular example, and as the Zamorin Mahārāja Bahādūr has kindly furnished me with the fullest details of any, I shall select his estates:—

(*a*) His property consists of *Chērikkals* (private demesnes), of which there are 23, of *Kalams* (literally, threshing floors, farms, &c.), of which there are 10, of *Dēvasvams* (temples), of which there are 28, of *Brahmasvams* (endowed *chuttrums* for *Brāhmans*), of which there are 8, besides other miscellaneous places, four in number.

(*b*) The number of the tenants on these properties is 10,322, but these are only the men who pay rent direct to the Zamorin. There are besides large numbers of sub-tenants.

(*c*) The number of land agents, clerks, &c., employed on these various properties is 839; there being six principal men at head-quarters, and one or more *Kāryastans* (land agents) stationed locally in charge of each *Chērikkal*, *Kalam*, &c. Sometimes, but rarely, one *Kāryastan* has charge of more than one *Kalam*.

(*d*) The main duties of the local *Kāryastans* are to collect rent (in money or in produce) interest, and other dues payable by the tenants, to grant receipts for the same, and to incur ordinary expenses and expenses connected with the celebration of ceremonies.

(*e*) The highest salary paid to any of these men (including those at head-quarters) is Rs. 20 per mensem, but they also receive fees on renewal of deeds from the tenants; the usual rates being—

Rs. 4	for a deed of land yielding	1 to 50	*paras.* of *pāttam*	(rent).
„ 6	do.	do. 50 to 100	do.	
„ 8	do.	do. above 100	do.	

(*f*) Each local *Kāryastan* gives security, in writing to the extent of the property entrusted to him.

(*g*) None of the men employed have passed any of the Test Examinations, but they are men of experience educated in country schools and afterwards employed in preparing deeds, &c.

The above is perhaps the largest estate in Malabar, but the main facts are alike in others.

245. None of the other proprietors, who sent replies to my circular, have estates so extensive as those of the Zamorin Mahārāja Bahādūr; but the main facts were alike in each of their cases. The *Kāryastans* (land agents) are all men of common education; their salaries and fees are disproportionately small; and their main duties are the collection of rent, &c., for which they grant receipts.

It is the granting of receipts which places so much power in the agents' hands; they are practically uncontrolled.

246. It is this granting of receipts which places so much power in the hands of the *Kāryastans*. They live so far away from the *Janmis'* head-quarters that they are practically uncontrolled in this matter. If the tenant comes to pay his rent or his renewal fees, the *Kāryastan*, unless he has been squared, refuses a receipt. At the next monthly or other periodical examination of his accounts the omission of the tenant to pay is noticed and the reason asked. It is difficult for the tenant to obtain a hearing, and before long he finds himself embroiled in litigation with his *Janmi*. The tenants, therefore, have, as a rule, to fee or otherwise bribe the *Kāryastans* liberally, and this was one of the main grounds of complaint* against them.

The tenants have to bribe the agents liberally, and this is a main ground of complaint.

Complaints as to refusal of receipts for rent paid, also very numerous, (Petition Register Heading, "Receipts.")

247. As to the refusal of receipts for rent, &c., paid by the tenants, the complaints were also very numerous. The numbers of the petitions relating to this point are classed together under the heading of "Receipts" in the Index to the Petition Register, and need not be here repeated. In two† cases, it is apparently the ordinary practice of the estate not to give receipts, and one‡ petitioner had to sue his *Janmi* to compel him to receive his rent.

Sometimes the ordinary practice of the estate is to refuse receipts.

This refusal of receipts presses with peculiar hardship on the tenants.

248. The refusal of receipts presses with peculiar hardship on the tenants, because, if a tenant after paying his rent, &c., is unable to produce his receipts, the Courts deduct (as already noticed in Chapter IV, paras. 214—216) the whole of the alleged arrears (sometimes as many as (19) nineteen years' arrears§) from his *Kānam* amount when he is evicted. The mischievous effect of the High Court ruling on this point is very great. The tenant is not only expected to be most careful in preserving sometimes for half a lifetime the receipts he gets, but, in some cases, he cannot get receipts at all, and is wholly at the mercy of his landlord if he chooses to be fraudulent.

A number of specific acts of fraud brought to notice.

Tenants also implicated in some of them.

249. A considerable number of specific instances of fraud were brought to my notice, but these were not always frauds by proprietors or their agents, for tenants, too, were sometimes‖ more or less concerned in them. The following arrangement of the complaints under this head may be found of use:—

I. Fraudulent hopes or promises of renewal of deeds.

I. Some¶ complained of fraudulent hopes or promises having been held out to them of obtaining the renewal of their leases or the grant of new leases. In these cases money was paid on the one side, but the promises on the other were not fulfilled. The difficulty of obtaining receipts for payments made stands much in the way of the tenants.

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* Nos. 273, 315, 363, 673, 893, 905, 911, 922, 986, 1016, 1017, 1045, 1066, 1067, 1116, 1119, 1122, 1135, 1138, 1163, 1183, 1184, 1185, 1195, 1215, 1259, 1262, 1285, 1290, 1325, 1347, 1355, 1402, 1410, 1419, 1427, 1428, 1430, 1449, 1452, 1454, 1457, 1465, 1466, 1482, 1492, 1500, 1509, 1546, 1547, 1550, 1551, 1552, 1553, 1554, 1556, 1561, 1634, 1635, 1656, 1666, 1704, 1781, 1798, 1813, 1861, 1862, 1876, 1877, 1930, 1946, 1948, 1961, 1977, 1978, 1985, 1990, 1996, 2078, 2081, 2111, 2144, 2160, 2163, 2182, 2186, 2189.

† Nos. 1535, 1646.

‡ No. 1105.

§ No. 217.

‖ Nos. 35, 184.

¶ Nos. 105, 115, 144, 158, 165, 171, 214, 393 and 505.

II. Frauds in preparation of deeds.

II.—Of frauds committed in the preparation of leases and other deeds, a number of cases* were brought to notice. The tenants are, as a rule, extremely ignorant and illiterate, and sometimes when too late find that there are terms in their deeds, of the existence of which they were totally unaware, and sometimes even the whole character of their deeds is changed without their being aware of it.

III. Fraudulent retention of deeds.

III.—Of fraudulent retention or possession of deeds some† complained. It is difficult for a tenant, while his relations with his landlord are still amicable, to refuse to hand over his deed to him for some alleged temporary purpose, but they are not always returned, and if the matter goes into the Criminal Courts, it is extremely difficult for the tenant to prove that his assertion regarding the fraudulent retention of the deed is true.

IV. Fraudulent sales or transfers of land.

An extraordinary case.

IV.—Of fraudulent sales or transfers of interest in land, some examples‡ are noted. The facts stated in petition No. 1848 are of so extraordinary a character that it would have been impossible to credit them, had not the investigation into the facts fully established their truth in full detail. No Act of Parliament will prevent a man ruining himself if he is such a fool as this petitioner is shown to be, and the case is alluded to merely as evidence of the sort of dealings which unscrupulous men, even of the highest caste, sometimes resort to in their relations with their ignorant tenants.

V. Frauds during litigation.

V.—Of frauds resorted to while litigation was in progress between the parties, a good many instances§ were given. Of these, the most numerous class related to fraudulent hopes and promises held out to tenants, while matters were in Court of favorable compromises being arrived at if the tenants did not make any counter-claims in Court. Trusting to these false promises many tenants seem to have neglected their own interests in not claiming in Court the value of their improvements, and seem to have found out, when too late, that the consequence was eviction without payment of anything in the way of compensation for their improvements. This seems to be such a common device on the part of the needy law agents about the Courts that it is difficult to understand how the tenants, ignorant and credulous as they are, are ever entrapped by it.

VI. Fraudulent claims to tenants' own lands.

VI.—Other petitioners‖ complained of fraudulent claims to their lands being made, chiefly during the course of litigation between the parties. In the absence of a Survey and Land Register, boundaries are necessarily often very vague, and it is extremely difficult to determine where one holding ends and another begins. Of this uncertainty full advantage is taken by unscrupulous men in the Courts, and the tenants being ignorant and unused to the ways of Courts are usually the sufferers.

These frauds due chiefly to the hungry land agents and pseudo-law agents.

250. Most of these frauds were undoubtedly the work of the hungry *Kāryastans* and of the unscrupulous and irresponsible pseudo-law agents who infest the Civil Courts and mislead ignorant suitors.

Land agents also sometimes obtain direct profit from tenants' misfortunes.

251. But *Kāryastans* also frequently obtain a direct profit from the misfortunes of the tenants, and there were many complaints¶ of tenants having been evicted at their instance and for their benefit. In the case of petitioner No. 1813, his eviction resulted in the eviction likewise of no less than (13) thirteen sub-tenants holding under him.

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* Nos. 16, 94, 109, 126, 153, 161, 182, 219, 260, 263, 357, 1540, 1752, 1903, 2115.

† Nos. 572, 1121, 1352, 1388 and 1644. ‡ Nos. 245, 1848, 2052.

§ Nos. 49, 73, 107, 108, 113, 154, 155, 167, 188, 216, 348, 354, 356, 361, 364, 388, 554, 673, 684, 892, 934, 968, 1030, 1543, 1705, 1711, 1801, 1852, 2026, 2114, 2150, 2155, and 2181.

‖ Nos. 67, 85, 88, 128, 341, 480, 1055, 1056, 1220, 1337, 1859.

¶ Nos. 68, 146, 837, 881, 959, 968, 1043, 1224, 1231, 1237, 1238, 1266, 1267, 1268, 1295, 1439, 1660, 1813, 1859, 1924, 1939, 1960, 1997, 2081, 2157.

Complaint as to the fraudulent size of the bushel measure used in measuring rents taken in kind.

252. Only one* petitioner brought forward a formal complaint that his *Janmi's para* or bushel measure for measuring the rent paid in kind was much larger than the customary measure, and even his complaint was not found to be well grounded. It is a fact, however, that has been frequently brought to my notice that some *Janmis* do not measure in their rents (taken in kind) by the customary local *para*, but use one of their own appreciably larger in size.

* No. 2149.

CHAPTER VI.

GOVERNMENT AND OFFICIAL ACTION.

Section I—Civil Courts.

Excessive expense of Court Proceedings.

253. The most important of the matters* brought to my notice by the petitioners in regard to Civil Courts was the excessive expense of Court Proceedings. The evidence on this point in the petitions is not so full as it might have been made. So far as I could judge, the petitioners viewed the levy of these excessive Court expenses (chiefly due to the Court fees charged) as part of the policy of Government. In cases in which in England a man resorts to his Solicitor for legal advice, a native in this country equally, as a matter of course, files a law suit. Indeed, he has no other resource, for there are no Solicitors or confidential Law Agents to do for him the preliminary work which should, in most cases, precede the filing of the suit. This is, so far as I can judge, why the complaints against excessive Court expenses were not more specific and more general. It was looked on as the Sirkar's mode of adjusting civil disputes, and as such not to be lightly questioned, though the expenses of it fell heavily on the poor suitors.

In Malabar a man files suits in cases in which a man in England would consult his Solicitor.

The filing of a suit is thought to be the only Government mode of adjusting Civil matters.

Court charges impose a grievous burden on the district.

254. There can be no doubt that these Court expenses impose a very heavy burden on the district, for I find that no less than

In suits.

15 per cent. of the Regular Suits and
23 ,, Small Cause Suits.

instituted in all the up-country Courts of the Presidency (excluding Village Munsif's Courts) in the five years ending with 1880 were instituted in the Courts of Malabar alone.

And also in appeals.

255. In appeals from Regular Suits the per-centage is also excessive, and is progressively on the increase, the per-centages being

	Per Cent.
1876	16
1877	19
1878	21
1879	21
1880	22
	5)99
Average ..	19⅘

The Malabar District Munsifs are over-worked.

An increase in Courts, though necessary would, be a step in the wrong direction.

256. The progressive increase in appeals is probably due to the District Munsifs of Malabar being over-worked, and this could probably be mended by an increase in the number of Courts. An increase in the number of Courts, although it may be necessary under the present policy of Civil Administration, is, however, to my thinking, a step in the wrong direction.

The large proportion of uncontested cases filed in Court is sure proof that responsible Law Agents are more wanted than extra District Munsifs.

257. For I find that of the 12,439 Regular Suits and of the 19,044 Small Cause Suits disposed of in the Courts of District Munsifs in Malabar in 1880, no less than 6,617 and 7,084, respectively, were uncontested suits, and it cannot be doubted that these uncontested suits and an indefinite number more of those which were contested, if the matters in issue had been properly handled, in the first instance, by a body of responsible Law Agents, should never have come to Court at all.

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* Nos. 68, 127, 167, 221, 333, 442, 684, 932, 1534, 2060, 2090, 2177, 2186.

258. Is there any necessity, I would ask, that all the legal work of the country should pass through the Courts? When a man is forced to bring his grievances into the public Courts an amount of embittered feeling, which it is difficult to gauge, is *of necessity* created. At present, such a man has no other resource, for the existing body of *Vakeels* in up-country Courts is quite inadequate, even if it were competent (which it is not), to deal effectively with the law business of the country.

Is there any necessity for all the law business of the country to go through the Courts?

259. In the year 1880 there was a surplus of nearly Rs. 3,00,000 of receipts over charges (including those of Magistrate's Courts) in the administration of the Judicial Department in this Presidency. What the surplus was in Malabar alone the returns (p. 94 of the High Court Administration Report) do not show; but looking to the excessive proportion which Malabar contributes to the general litigation of the Presidency the cost of Court charges must proportionally have fallen very much more heavily on the litigants in Malabar than in the other districts of the Presidency. Moreover, it must not be forgotten that the costs of commissions issued (a very large item) are not paid in Court Fee Stamps, so that the Rs. 34,00,000 odd levied in Court Fee Stamps in 1880 does not include every thing paid by the suitors in the Courts.

Malabar contributed largely to the surplus of Judicial Receipts over charges in 1880.

260. In connection with this point, some cases* may be cited, in which the parties seem to have suffered owing either to their having been badly advised, or to the lack of proper legal advice.

Some petitioners suffered from being badly advised in legal matters.

261. Very many cases were brought to notice in which the Courts had, in the opinion of the petitioners, failed to do them justice. In every part of the world the defeated suitor in Court holds the Court more or less to blame for his want of success, so that it seems unnecessary to notice most of the petitions calling the Courts' decisions in question, but some few merit, I think, some remarks. There were, besides the complaints of the inadequacy of improvement compensation awarded (*see* Chapter IV, para. 185 above) many complaints† of suits having been brought either collusively or with a fraudulent intention. In some cases‡ retribution had overtaken the fraudulent litigant, and he had been denounced in Court, and in one§ case he had been successfully prosecuted criminally.

Many complaints of Courts not having done the petitioners justice.

This is natural enough.

Collusive suits.

262. The frauds and collusions are not always, however, perpetrated by the *Janmis* and their agents, for tenants also resort‖ to them.

Tenants also commit frauds, &c.

263. There is undoubtedly a deep-rooted distrust of the Courts, especially on the part of the *Māppillas*, one¶ of whom had been engaged in litigation with the *Āḷuvānchēri Nambūtiripād.* In this petition, it was asserted that this *Brāhman* was worshipped as a God by the Hindus, and that, therefore, a Hindu Munsif was not likely to do justice to the petitioner, a Muhammadan. In the decision passed in the case the District Munsif, a well-educated *Nāyar*, made the following remarks:—"In point of religious sanctity the plaintiff is admitted to hold the foremost place among the *Brāhmans* of Malabar." There was no question of degrees of "religious sanctity" before the Court, so it is difficult to see what that had to do with the case. On the other hand, it is not surprising that petitioner conceived a strong distrust of the quality of the justice obtained in such a Court and in such a cause, and in this connection, I think, the remarks made in para. 68 of Appendix I are fully justified.

The *Māppillas* have a deep-rooted distrust of the Courts.

264. The same sort of feeling is expressed, though it is this time expressed by a Hindu, a *Nāyar*, in petition No. 1534. "A decree was, *of course*, obtained in favor of the *Janmi*, as he is a noble and influential person."

Hindus also somewhat of same opinion.

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* Nos. 901, 968, 994, 1030, 1206, 1663, 1789, 1801, 1852, 1855, 1859, 1935, 2150, 2151.

† Nos. 148, 156, 202, 239, 308, 358, 440, 482, 570, 818, 905, 989, 995, 996, 1071, 1088, 1089, 1136, 1324, 1345, 1350, 1519, 1796, 1838, 1845, 1859, 1960, 2081, 2155, 2165, 2181.

‡ Nos. 358, 905, 989. § No. 358. ‖ Nos. 202, 996, 1071, 1721. ¶ No. 1785.

Section II—Officials.

No systematic corruption among officials.

265. As regards officials, I need say but little, as the conduct of officials only came before me incidentally, and I did not, in this instance, consider it necessary to act upon the discretion which the Government gave me of inquiring into other matters requiring investigation. Had I believed that there was a wide-spread *system* of corruption prevalent among officials, I would undoubtedly have taken up this point, and have thoroughly investigated it; but the petitions certainly do not afford evidence of the existence of any such *system*, and, from intimate acquaintance with the people of the district for many years, I am most thoroughly convinced that no such *system* exists. Individual instances of corruption do certainly occur, and are sometimes brought to notice; these, however, only serve as proofs of what I have asserted, namely, that *systematic bribery* of higher officials by those below them does not exist in Malabar.

The officials chiefly bribed are those under lax discipline.

Civil Court Commissioners have extensive opportunities of taking bribes.

266. The officials, who are most extensively bribed, are those who, from lax discipline, have opportunities afforded to them of taking bribes, and of all classes of officials in the district, there is perhaps no class which has better opportunities of doing this than the Commissioners employed by the Courts in valuing the compensation to be awarded for cultivators' improvements. I have already noticed, in connection with this point (Chapter IV, para. 198 above) the excessive delays which sometimes occur between the date fixed for the return of a commission and the date on which it is actually handed in. Some specific instances* of such bribe-taking were brought to notice, and in the two† general petitions a large number of respectable persons brought this forward against the process servers, &c., as a general charge.

Considerable degree of truth in charge against Court Commissioners.

267. I conclude, on the whole, that there is a considerable degree of truth in the charge. The District Munsifs are over-worked, and cannot, owing to this and to their being, as a rule, chained down to one spot, exercise over their subordinates the necessary amount of local supervision and check.

Complaints against Court *Vakeels.*

268. Of complaints‡ against Court *Vakeels*, there were comparatively few instances brought to notice, and this, it might be thought at first sight, was a point in their favor. As matter of fact, however, the real legal work of suitors in the Courts is done not by the registered *Vakeels*, but by any person clever enough, who does not mind soiling his hands in dirty work. The registered *Vakeel* having a name and place to lose is chary of doing this. The consequence, of course, is that even European Barristers are sometimes guilty of what in England would be thought the unpardonable professional offences of producing in Court perjured witnesses and false deeds. As matters stand, they cannot help themselves, for, except in the Presidency Town and perhaps in one or two other places, there are no Solicitors, or Attorneys, or native legal practitioners of that class to work up, and be responsible for the facts to be presented to the Courts.

The most has been made of the materials available for district staffs—Civil, Revenue, and Police.

269. As regards other officials mentioned, the facts do not seem to deserve specific mention, and I may add, in conclusion, on this point that, in my opinion, the most has been made of the materials available for organising efficient native staffs in all departments in the District—Judicial, Revenue, and Police; and that in no respect, so far as I have been able to judge, is the present state of the relations between persons interested in the soil due to any wide-spread far-reaching action of the officials. Mistakes in general policy there may have been, but for this the officials charged with the execution can hardly be held responsible.

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* Nos. 116, 578, 885, 1155, 2060, 2142, 2155. † Nos. 2171 and 2172. ‡ Nos. 72, 239, 402, 894, 1121.

Section III—Land Revenue.

There was a Government Land Revenue in Malabar in ancient times, and the *Janmis* subsequently took possession of it. The Muhammadan (Mysorean) Government viewed the *Janmis* as Zemindars.

270. On this subject, I would first of all call attention to what is said in Appendix I, paras. 114, 192 to 198 and 224 to 231, and in Appendix II, para. 246, regarding the history of the Government share of the produce, and regarding the fact which puzzled every body when the country was taken under British rule, namely, the absence, so far as could be seen, of any Government Land Revenue. The *Māppillas* told Mr. Jonathan Duncan that the Muhammadan Government had "absorbed" the *Janmi's* share; but this was looked on then, and it has been looked on since, as merely a way of saying that a portion of the proprietor's rent in the European sense had been taken as Land Revenue. There was more in the remark, however, than has ever yet been realised, and we can now see that Hyder's Government in taking, as they did, in many cases 100 per cent. of the *pāṭṭam* was only resuming what originally had been the Government share of the produce. The *Janmis** were, in short, Zemindars in their eyes, and not proprietors at all.

Account of the principles regulating the Land Revenue assessments prepared to ascertain if the assessments are any where oppressive, Appendix II.

271. In Appendix II will be found what I believe to be an exhaustive account of the principles which regulate the Land Revenue assessments in Malabar. I prepared that paper in order to ascertain whether the proportion of produce taken by Government as Land Revenue assessments are any where so oppressive at the present time as to take from the people more of the produce than by the fixed principles regulating the assessments, the Government intended to take.

A simple example of the plan adopted in Appendix II.

272. It will make clearer what my intention was if I reduce it to figures by a simple example—

(*a*) suppose the Government elects to take 50 per cent. of the net produce of the soil as its share; and,

(*b*) suppose the Government decides to convert that share into a money assessment at, taking the case of paddy, Rs. 25 per 1,000 Macleod seers;

then it follows that if, at any time, the market-price of paddy falls below or rises above Rs. 25 per 1,000 Macleod seers, the share of produce which Government really takes exceeds or falls short of the standard share of produce in the inverse ratio.

Table showing how percentages of net produce rise and fall with prices of produce.

273. The following table will make this clear:—

STANDARD GOVERNMENT SHARE of net produce—50 per cent. Standard Government Commutation rate—Rs. 25 per 1,000 Macleod Seers.

Actual Market-prices of 1,000 Macleod Seers.	Standard Government Commutation Rate per 1,000 Macleod Seers.	Standard Government Share of net Produce.	Varying percentages of net Produce actually taken, due to rise or fall of the Market-prices.
RS.	RS.	PER-CENTAGE.	PER-CENTAGE.
10	25	50	125
20	25	50	62½
25	25	50	50
30	25	50	41⅔
40	25	50	31¼
50	25	50	25

* Why the settlement was not made with the *Janmis* is explained in Appendix I, para. 223.

274. The test, then, whether an assessment is oppressive or not is to take the standard Government commutation rate for the produce, and find out whether it exceeds or falls short of the market-price at the time and place at which it is desired to apply the test.

The test of whether an assessment is oppressive or not.

275. This has been done in full detail, as for the year 1805-6, at paras. 231-232 and, as for the present time, at para. 316 of Appendix II, and the general result may be stated thus: In 1805-6 the assessments were oppressive every where, and in some places outrageously so, while at the present time the assessments are every where extremely moderate and far below the shares of produce which Government thought it politic to fix originally as its shares.

This test applied as for the year 1805-6 and now.

Result in 1805-6 the assessments were every where oppressive, and they are not so now, being extremely moderate.

The action of Government has had no effect in raising rents, so the reasons for the present unsatisfactory state of affairs must be sought elsewhere.

276. Clearly, therefore, the action of Government has had no effect in raising rents to the pitch they have now reached. And the reasons for the growing insolvent cottierism of the great body of actual cultivators must be sought in other directions.

277. There are only five petitions* on the Register, bringing to notice cases of alleged over-assessment of the regular land-tax; four of these come from the Kurumbranād Taluk, and one from an outlying part of Walluvanād. An equitable assessment is, of course, not always equitably distributed among the tax-payers, and my surprise is that there are so few cases of individual hardship brought to notice, for I am well aware that the individual assessments, particularly on wet lands, vary excessively.

Only 5 complaints of over-assessment of regular land assessments.

Nevertheless individual assessments vary excessively.

278. It will never be otherwise in Malabar until we obtain a correct and complete Land Register. There are at present no means of checking what goes on constantly from perfectly natural causes. Holdings are enlarged, are diminished in size, are thrown together, and are parcelled out again, and simultaneously the distribution of items of assessment are tampered with without any regard to the principles of the original settlement. The principles of the original settlement thus become completely changed: the good land is assessed with less, and the bad land with more of the Land Revenue than they respectively ought to bear. It was this that necessitated the revision by Sir W. Robinson of the wet land assessments in 1857—1861 (*see* paras. 269, 272 of Appendix II), and the necessity for a repetition of it is only a question of time. As matter of fact, which I have put to a practical test over and over again, the wet land accounts on which Sir W. Robinson relied are hardly of any use now, because the names of fields are so frequently changed by the occupants. The names in the *pattas* or land assessment bills do not correspond with the names entered in the deeds by which the occupiers hold their lands.

It will never be otherwise till a proper Land Register is prepared.

279. Five other petitions† bring to notice the hardship of the miscellaneous land assessments on certain fugitive dry crops in the Pālghat Taluk. These were imposed in 1870 (*see* para. 279 of Appendix II); they have never been cordially accepted by the people, and are open to various objections which will no doubt be considered when the land assessments are next revised.

Five petitions regarding miscellaneous Land assessments in Palghat.

280. The only other point in this connection which requires notice relates to the grant of *Cowles* to cultivators. Two petitioners‡ complain of the insecurity of their holdings under Government *Cowles*.

The grant of Government *Cowles* to cultivate.

281. *Cowles* are grants of remission of Land Revenue assessments for periods of years on condition of bringing land under cultivation. The particular rule under which *Cowles* are granted to parties who are not proprietors of the land to be reclaimed is as follows:—

The particular rule under which lands given on *Cowle* to people who are not proprietors.

"9. Parties desirous of reclaiming tracts of waste land, whether assessed to the Revenue or not, are to present Darkhasts (as hitherto done) either at the Huzzur, Subordinate or Taluk Cutcherries. They would save themselves much trouble and annoyance if, previous to making such applications, they

Application for reclaiming waste.

* Nos. 130, 406, 490 491, 492. † Nos. 883, 923, 952, 960, 961. ‡ Nos. 1538, 2175.

were to obtain the consent of the parties, who may hold proprietary or mortgage right to the land, to their reclaiming it. Proprietors are, of course, to have the *choice* of reclaiming such lands themselves, but should they refuse to do so on sufficient grounds, the Government will take the offer of any other party who comes forward. A clause will always be inserted in *Cowles* given to such parties to the effect that they have to account to the proprietor for his share of the produce, and are to pay to the *Sirkar* merely the usual *Revenue*. The party claiming proprietary or mortgage right to the land will, however, have himself to recover his share by a suit in the Civil Court if it cannot be effected by a mutual amicable settlement between the parties."—Collector to Revenue Board, No. 87, dated 10th July 1846; Revenue Board to Government, No. 397, dated 20th August 1846; Extract from Minutes of Consultation, No. 915, dated 10th September 1846.

Some of the most recent Court rulings on the same subject.

282. And some of the most recent rulings of the Courts on the mutual rights and obligations of proprietors and *Cowle* holders will be found in the Glossary to Appendix I under "*Cowle.*" The Courts hold that a *Cowle* confers—

(1) a right of entry on the land;
(2) a right to compensation for improvements;

but it does not affect—

(3) the *Janmi's* right to rent;
(4) nor any right as against a prior occupant;
and in regard to a squatter on waste land who has obtained a *Cowle* from Government;
(5) there is no right of ouster if twelve years have elapsed from the date of entry.

The proprietor's right of ouster unlimited if exercised within twelve years.

283. The point here raised is of so much importance that I think some further consideration of it is necessary, and, first of all, I would observe with respect to the effect of the Court ruling No. V above that the converse would undoubtedly now-a-days be held good, and that, if twelve years had not elapsed from date of entry, the *Cowle* holder would have no protection against the proprietor's right of ouster.

Government might put in a man on *Cowle* one day, and the Courts might turn him out on the day following.

284. To put the matter shortly, Government might put a man in possession under *Cowle* one day and the Courts might turn him out on the day following.

The Government might insist on the proprietor who exercised this right, paying the assessment himself, but what person will apply to reclaim waste under such insecurity.

285. The Government would, of course, in such a case insist that the proprietor should pay the Land Revenue assessment which the *Cowle* holder had agreed to pay, but that hardly meets the practical difficulty which is this: That no man other than a proprietor will apply for a *Cowle* to reclaim land on such uncertain terms, and that practically all the efforts of Government to induce the people to take up waste land will be of no avail, as the Government has no power to protect in his possession the man selected to reclaim it.

This has been brought about by the Court's recognising the *Janmi* as absolute proprietor.

286. The present position in this respect has been gradually brought about by the action of the Courts in conferring on the ancient Malabar "birthright" holder all the attributes of an absolute European proprietor, to which, as matter of right, he was, I contend, in no sense entitled originally.

CHAPTER VII.

CLASS DISSENSIONS, CRIME, &c.

Section 1—*Classes.*

The *Māppiḷḷas* were the chief petitioners.

They have all along headed the opposition to the *Janmis.*

287. I have already noticed in Chapter II above that the petitions came from all the large classes of the community, but more especially from the *Māppiḷḷas* resident in Eṛnād, Waḷḷuvanād, and Ponnāni Taluks. This class has all along headed the opposition to the *Janmis*. In Appendix I, Chapter VII, Sections V and VI, I have referred in detail to the facts which seem to me to account for the organisation of the fanatical outrages by *Māppiḷḷas*, which have, in the last half century, brought so much misery on the country.

The *Māppiḷḷa* outrages designed to counteract the *Janmi's* overwhelming influence in the Courts.

288. It was an organisation designed, in my opinion, to counteract the overwhelming influence when backed by the British Courts of the *Janmis* in the exercise of the novel powers of ouster and of rent raising conferred upon them. A *Janmi* who, through the Courts, evicted, whether fraudulently or otherwise, a substantial tenant, was deemed to have merited death, and it was considered a religious virtue, not a fault, to have killed such a man, and to have afterwards died in arms fighting against an infidel Government which sanctioned such injustice.

Mr. Strange mistook the symptoms of the disease for the disease itself (so to speak).

289. Mr. Strange, who was sent to deal with these outrages, had a most difficult task imposed on him, for it was absolutely necessary that the outrages should be repressed. Mr. Strange's proposals to effect this, which were substantially those which had already been put forward by the Collector, Mr. Conolly, were admirably adapted to attain the end in view, and if they have failed in the further aim of rendering the people happy and contented, it is solely because (if I may be permitted the metaphor) the symptoms of the disease were mistaken for the disease itself.

A typical *Māppiḷḷa* outrage is the outcome of several causes.

290. A typical *Māppiḷḷa* outrage is the outcome of several causes—

(*a*) The position of some man of influence is generally menaced in the Civil Courts.

Recent instances.

(*a*) There is generally first and foremost some man of influence, whose position has been rendered insecure by the action of one or more *Janmis* working through the Courts. In the case of the second Kulattūr outrage in 1873, this man of influence was the *Adhikāri* (Village Magistrate) of the Pāral *Amṣam*. In the Mēlattūr case in 1880 the man whose position was menaced was an influential *Māppiḷḷa* of that Amṣam.

Details regarding the threatened outrage at Paḷḷipuram in December 1880, and the chief man's position at the time.

In the threatened outrage in Paḷḷipuram *Amṣam* in December 1880, it was the *Adhikāri* (Village Magistrate) of the *Amṣam*, whose position had been assailed. I obtained from the lips of this man just before he died, a long account of himself. He had been left by his father property worth more than Rs. 8,000, and he had himself acquired before his father's death a considerable amount in addition, but nearly the whole of it was held in little bits on *Kāṇam* from no less than 22 *Janmis*. He had to spend Rs. 14,000 in procuring, after his father's death, renewals of some of his *Kāṇam* deeds. One of the *Janmis*, with whom a renewal had not been arranged, then threatened to evict him, and he had in consequence to sign a bond for Rs 3,000. It was this bond and the interest on it which ruined him, for he was never able to clear it off. He had also a position to maintain, and he lived somewhat extravagantly. In

the end of 1880 matters were rapidly coming to a crisis in his affairs. He had either sold or mortgaged his rights, or had had his rights annulled in the lands of 20 out of the 22 *Janmis*, and decrees were still impending in respect of some of his holdings. In fact, his position was desperate, and being a man of influence, there is no question that if the *Māppiḷḷa* Act had not been in force, he would, at an earlier stage of his affairs, have organised fanaticism to clear himself. As it was, it is doubtful how far a design of this kind had been matured in December 1880, when the affair was brought to notice through the influence of other well-to-do *Māppiḷḷas* in the neighbourhood. It is important to notice that a similar design in this same neighbourhood was similarly frustrated in March 1877. Two men were deported at that time, and several others had to give security for good conduct.—G.O., No. 1134, dated 5th May 1877.

(*b*) The next element favor-able to outrages is a constant under-current of petty wrongs among the poorer *Māppiḷḷas*.

(*b*) The next element necessary to the favorable organisation of an outrage has been already alluded to (Chapter IV, para. 159, Clause (*i*) above), viz., a constant under-current of petty wrongs among the lower classes of the *Māppiḷḷas*,—wrongs for which the people undoubtedly hold the Government, to a great extent, responsible, inasmuch as it is under the cover of the authority of the Government's Civil Courts that these wrongs are perpetrated. These petty wrongs are sustained by the class of lower *Māppiḷḷas*, who have, in all the outbreaks, furnished the recruits to the bands of saints (*Sāhids*), who pluckily went forth to death.

(*c*) A religious pretext has finally to be sought.

In the threatened case at Paḷḷipuram, it was the building of a mosque in opposition to a *Janmi's* wishes, who had consequently evicted and ruined some tenants, which would have been the pretext.

(*c*) Finally, a pretext has to be found for the design, and this is easily managed as a rule. In the case in point, it was, as already explained to Government in my letter, No. 111, dated 9th August 1881, the building of a mosque in opposition to the wishes of a *Brāhman Janmi*. There was some uncertainty as to the ownership of the site on which the mosque was built, and the builders had perhaps as good a right as any one else to build there, but the *Janmi* did not wish it to be built, and in revenge for their having done so in opposition to his wishes, he evicted* and ruined* several of his *Māppiḷḷa* tenants. These men had, in the eyes of their co-religionists, suffered for the sake of Islam, and revenge on the unbelievers was, under such circumstances, a sacred duty. In September 1880, the Mēlattūr *Māppiḷḷas* found it more difficult to obtain a satisfactory pretext for the outrage, and the fact that a small *Cheruman* boy had first embraced and afterwards renounced Islam was all that they eventually had to go upon. In the second Kuḷattūr case in September 1873, a quarrel about land for a mosque, which had lain dormant for about twenty years, was revived for the same purpose.

In September 1880 at Mēlattūr the only available pretext was that a *Cheruman* (slave caste) boy, a convert to Islam, had afterwards renounced it.

In the Kuḷattūr case in September 1873 a quarrel about land for a mosque that had lain dormant twenty years was revived for the purpose.

Men who die in defence of mosques have much greater *eclat*, and attract a larger following than men who merely murder slave boy perverts.

The number of instances of mosque disputes known to the authorities.

291. Now in regard to these pretexts for the commission of outrages, it is most important to observe that men who take up arms and die in defence of mosques have much greater *eclat* attached to them, and have a much better chance of raising a large following than men who merely murder small *Cheruman* boy perverts and then die fighting. A mosque dispute is, therefore, always a serious matter, and it is as well to notice how many such cases are at present known to the authorities.

292. In the Petition Register four such instances† are noticed, but one‡ of these is known to have been brought forward for another purpose, so there remain—

(1) the Paḷḷipuram—Irimbuḷi one, already alluded to above;
(2) the Mēlmuri case in the Ponnāni Taluk; and,
(3) the Wandūr case in Erṇād Taluk.

* Nos. 114, 179. † Nos. 114, 179, 180, 181, 1582, 1583, 2199. ‡ No. 114.

293. Besides these, the following cases have also come to notice:—

(4) The Cherupullassēri case in	Walluvanād	Taluk.	
(5) The Chunangād	do.	do.	do.
(6) The Kalladikōd	do.	do.	do.
(7) The Karimpula	do.	do.	do.
(8) The Villayūr	do.	do.	do.
(9) The Arimbratodika	do.	Ernād	do.

The progress made with the mosques in these cases.

294. In cases Nos. 1, 2, 4, 5, and 9 the mosques have been erected, in cases Nos. 7 and 8 the mosques are partially completed, in cases Nos. 3 and 6 no steps have yet been taken to build mosques.

In three cases the *Māppillas* have a more or less valid title to the sites of the mosques.

295. Again, in cases Nos. 1, 2, and 5 the sites on which the mosques have been built are held on more or less valid titles by *Māpillas*, so that in these cases if collision between Hindus and Muhammadans is brought about, there is not likely to be any question of the Courts interfering to cause the mosques to be pulled down, but action will be confined to revengeful evictions from other lands and to other harassing expedients.

In four cases the titles are defective.

These cases are much the most difficult to deal with.

296. In the cases Nos. 4, 7, 8 and 9, the *Māppilla* titles to the sites are defective,* so that any day the Civil Courts may decree that the sites shall be vacated, and, indeed, this has already been done in the case of No. 8. These cases are much the most difficult to deal with. They are similar to the dispute which arose in regard to the Kulattūr mosque over which so much blood was spilt, first in 1851, and afterwards in 1873.

No. 4 may be taken as illustrative of one mode in which such disputes arise.

297. Case No. 4 may be taken as illustrative of one mode in which such disputes arise. At Cherupullassēri there is a considerable *Māppilla* population, which, until this mosque was erected, had no place for religious worship or for burial. About 1860-61 a *Māppilla* Sub-Magistrate and Deputy Tahsildar was appointed to the place, which is the head-quarters of one division of the Walluvanād Taluk. He brought with him a school-master, and in 1861, the *Janmi* of the land was prevailed upon to give the site of the mosque to this schoolmaster on *Kāṇam* right for the purpose "of erecting a small house for the instruction of children in the Koran," and it was further agreed that "except that house no other buildings will be put up on the same ground." In 1862 a thatched shed was erected; the shed was gradually improved; in 1863 the improvements went on, and the building gradually assumed the shape of a mosque for the private prayers of the Sub-Magistrate at noon and afternoon while attending office. Muhammadan priests, &c., visiting the Sub-Magistrate were next accommodated there, and the building finally, but very gradually (about 1866) assumed its present proportions, and the practice of public worship on Fridays and of burial on the premises was begun. Overtures were made to the *Janmi* to buy the site, as soon as the building had approached completion, but he has steadily refused, and the site is, therefore, held on *Kāṇam*, which is renewable every twelfth year, at the end of which period the *Janmi* may sue for recovery of his land. The Sub-Magistrate was dealt with departmentally for his share in the business by my predecessor Mr. MacGregor.

The difficulty of dealing with such a case lies in this, that the *Janmi's* decree of ouster cannot be executed without fear of bloodshed.

298. Now the difficulty of dealing with such a case lies in this, that the *Janmi* of the site may obtain a decree for its restitution to him, but there is no way of executing such a decree without danger of bloodshed. In the case of mosque No. 9, the opinions of several Arab priests were sought by the parties as to whether a mosque once erected might ever be pulled down, and one of them gave it, as his opinion, that a mosque might be pulled down if it was threatened by the sea or by the river, or if its dismantlement was ordered by the King. This opinion was so unpalatable to the men who had asked for it, that it is said they tore up the paper publicly in the village street to show their contempt for the ruling. There is no doubt that whatever the

* The *Māppillas* admit that no mosque should be erected except on ground to which the builders have a valid title, but the straits they are put to, to obtain such sites compel them to adopt subterfuges to attain this end, and to salve their consciences.

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The *Māppillas* have decreed death to any one who pulls down a mosque.

strict Muhammadan law may be, the *Māppillas* have improved on it by decreeing death against any one who pulls down a mosque.

Action in such cases to be effectual must be taken before the mosque is commenced.

299. Under such circumstances, if action is to be taken at all, it is evident that it must be taken *before* the erection of the mosque is commenced, and that the severest penalties should be prescribed against those who begin to erect mosques without proper sanction. The decree of Court obtained by the *Janmi* of the site of mosque No. 8 is worthless, because it cannot be executed.

The Hindus throw great difficulties in the way of the *Māppillas* obtaining sites for mosques and burial grounds.

And this entails great hardships.

300. Much of the bitterness of feeling between *Māppillas* and Hindus on this point is due to the difficulties which the latter throw in the way of the former of obtaining suitable sites for mosques and burial grounds, and this is illustrated by the cases Nos. 3 and 6, above cited. In both cases large communities of *Māppillas* have no place of worship, and, what is still more grievous, have no place of burial for their dead within moderate distances of their homes. To have to carry, as they have to do at present, a corpse laid on an open bier some eight miles to a burial ground is undoubtedly a great hardship in a climate like that of Malabar; and, as regards mosques, they usually have one to every 100 or so of the population when left free to follow their own inclinations in the matter. In the Laccadive Islands they even have one to every fifty or sixty of the population.

The prejudices of the Hindus and the inconveniences they suffer when mosques are erected in their neighbourhood.

301. But the Hindus, particularly the *Nambūtiri Brāhmans*, consider it a sin to part with the *janmam* (birthright) in land, and to this are added various inconveniences to which they are put whenever mosques are erected in the neighbourhood of their houses or temples; by their strict rules of purification whenever they pass *Māppilla* burial grounds; by their scruples in regard to being compelled to listen to the distant chanting of Muhammadan prayers (*see* Appendix XX); and by the aggressive actions of the *Māppillas* and their disregard of Hindu feelings, particularly in respect to the slaughter of cows. On this last point *see* petitions Nos. 334 and 1639, in which cases a cow and a buffalo respectively were butchered in close proximity to a temple and a *Brāhman's* house as if to outrage the feelings of the Hindus.

But if proprietors find it remunerative to have *Māppilla* tenants, they should give them facilities for religious worship and burial of their dead.

The Kavaḷappāra *Nāyars* have steadily refused to admit *Māppilla* tenants.

302. Under such circumstances, if the parties fail to come to terms, it seems to me imperatively necessary that the Government should step in to adjust their disputes, and the ground on which this may be justified is, that when a *Janmi* elects to let his lands to *Māppillas*, he should give his tenants all reasonable facilities for religious worship and burial of their dead. It is open to all *Janmis* to do as the *Kavalappāra Nāyars* have done, that is, never to allow a *Māppilla** to sleep within their limits, but if they find it of advantage to themselves to allow *Māppillas* to settle on their lands, they must be prepared to do their duty by them.

The Romo-Syrians of the South of Ponnāni Taluk also have a similar complaint.

303. Nor is it the Muhammadans alone who have grounds of complaint in regard to sites for religious edifices and for burial grounds, for a large party of Romo-Syrians of the Vaylattūr *Amśam* in Ponnāni Taluk, headed by their priest, made a similar representation to me in respect to the refusal of the *Janmis* of their *Amśam* to give a site for a church and burial ground. There are over 300 houses of Romo-Syrians in the *Amśam*, and the population is over 1,000 souls. At present their nearest church and burial ground is at Pālayūr, a distance of fully eight miles. It is true that in this case a site was tardily promised when the Acting Collector interested himself on behalf of the people, but the promise has so far remained unfulfilled.

Dissatisfaction with *Janmis* not confined to Hindus and Muhammadans.

304. Finally, it will be observed, on reference to certain petitions,† that dissatisfaction with the action of the *Janmis* in treating their tenants is not confined to Muhammadans and Hindus, for these petitions came from, in one instance, a Basel Evangelical Missionary located

* No. 1675.

† Nos. 1637, 2001, 2002, 2003, and 2004.

※ The promise has since been kept, but only after the exercise of great pressure by the local authorities.—

in the North, and from a large body of Syrian Christians, headed by their Bishop, located in the South, of the Ponnāni Taluk.

Section II—Crime.

Return of grave crimes against property, 1865 to 1880.
Appendix XII.

305. The Superintendent of Police kindly prepared for me the statistics of grave crimes against property, which will be found in Appendix XII. The records did not enable him to go further back than 1865. Quinquennial averages have been struck, and some additional columns relating to the prices of food-grains and to evictions have been added, in order to make the return complete.

A marked increase in crimes relatively to population.

306. Considered relatively to population, there is a marked increase in these crimes. The district figures are—

1865—1866, one grave crime to 2,256 people.
1867—1871 „ „ 2,540 „
1872—1876 „ „ 2,124 „
1877—1880 „ „ 1,168 „

These figures, however, include Wynād, which, according to the census 1881, has gone down very considerably in population, due probably to the time of year when the census was taken. There is an increase in the population of every other taluk in the census 1881 (*See* Appendix XIX).

The increase is most marked in the taluks named.

307. The increase is most marked in the following taluks, leaving Wynād out of account:—

Periods.	One grave Crime to Heads of Population in			
	Calicut.	Ernād.	Walluvanād.	Pālghāt.
1865—1866 ..	2,314	3,999	4,365	3,045
1867—1871 ..	2,062	4,720	3,749	3,017
1872—1876 ..	1,722	2,760	2,776	2,774
1877—1880 ..	672	1,299	1,247	1,543

Ponnāni Taluk also at a high figure.

The ratio of crime to population in other taluks has been more than maintained. Ponnāni in particular having throughout been at a high figure, The figures for Cochin are, of course, town population figures, which are always higher than those for rural parts.

308. Turning to particular crimes—

Crimes accompanied by violence have been kept under, notwithstanding the relapse in 1874—1877.

(*a*) It is satisfactory to note that the crimes accompanied by violence,—dacoity and robbery,—have steadily decreased in numbers, notwithstanding the relapse in 1874—1877. It was generally thought at that time that there had never before been such an outbreak of violent crime in the district, but these figures dispel that idea. This species of crime will likely be kept under, so long as the particular attention now given to it is maintained, but no longer, as the figures show that other crimes and, of course, the criminal classes who benefit by them are on the increase.

Constant vigilance necessary.

The increase has been in house-breakings and thefts.

(*b*) The increase has been in house-breakings and thefts.

Arson stationary.

(*c*) Mischief by fire is nearly stationary.

The causes of this increase considered.

309. The causes for this increase are not very easily grasped. The statement merely takes in a few of the items. Other causes can hardly be put down in figures.

The price of grain.

310. The price of grain, which was at famine rates in the first and last of the periods, is, of course, one of the most important factors. Nevertheless, it cannot be said that the market-prices act as a sort of

criminal barometer, though undoubtedly crime does increase when famine prices are reached. There seems to have been a curious exception to this rule in the years 1865-66, for though grain was throughout the district at a much higher figure in 1866 than in 1865, there was a very marked diminution in crime in 1866 as compared with 1865. The reason of this is not easy to guess. When grain is at famine rates for long periods as in 1877—1879, crime must necessarily increase, and so it has done in this case. In ordinary years, however, as in the decade 1867 to 1876, it will be found extremely difficult to point out any necessary and uniform connection between prevalence of crime and grain prices.

The steady increase in eviction decrees.

311. I have thought it well to place side by side with the crime statistics the figures relating to eviction suits in the Civil Courts. These show that there has been one steady and steadily increasing influence at work throughout the district on the agricultural classes, who form the bulk of the population. The meaning of the increase in the number of eviction suits from an average of 2,053 in 1865-66 to an average of 4,983 in 1877—1880, and of persons evicted from an average of 1,856 in 1865-66 to an average of 8,355 in 1877—1880, is that proprietors of land have been putting on the screw and taking from the pockets of their tenants a much larger proportion of the produce of the land than formerly, and that the cooly class has been largely recruited from the class of evicted tenants (Chapter IV, para. 97).

The increase of crime is most marked in three out of the four great grain-producing taluks.

In the fourth taluk the per-centage of crime has all along been high.

The pressure on the agricultural classes by eviction through Courts is greatest in the grain-producing taluks.

312. It is important to observe that three out of the four taluks (para. 307 above) in which the increase in the ratio of crime to population has been most marked are three of the great grain-producing taluks of the district. The fourth great grain-producing taluk is Ponnāni, where the ratio of crime to population has all along been high. For reasons which have already been dwelt upon (Chapter IV, paras. 133—143 above) it has been ascertained that proprietors of grain lands are better able than proprietors of gardens to screw down their tenants. So it was to be expected that the pressure on the agricultural classes by eviction proceedings in the Courts would be greatest precisely in those taluks in which I find from the Criminal returns the increase in grave crimes has also been most marked.

The per-centages of dacoities in 1874—1877 compared with the per-centages of grain-crop lands.

313. In the dacoity outbreak in 1874—1877 the per-centage of dacoities to per-centage of grain-crop areas in the four grain taluks (*see* Chapter IV, para. 78 above) was as follows :—

Taluks.	Per-centage of Dacoities.	Per-centage of grain-crop Areas to district total.
Ernād	10	12
Walluvanād	36	20
Pālghat	23	21
Ponnāni	12	16
	81	69

The close correspondence seems to be more than purely accidental.

Out of 358 dacoits from those taluks convicted in 1874—1877, 337 were cultivators or laborers.

The close correspondence between these two sets of figures seems to be more than merely accidental, and, in fact, points in the direction already indicated, namely, that the pressure exercised through the Civil Courts on the agricultural classes in those taluks drove them to this as well as to other forms of crime. And, accordingly, I find that out of 358 dacoits from those taluks, who were sentenced for crimes committed in those years, no less than 337 were persons classed as either agriculturists, toddy-drawers, or laborers, the latter class being, of course, chiefly agricultural. (*See* Appendix XIII.)

Cultivators and laborers intimately connected, particularly in grain-producing taluks.

314. It may be objected that laborers, even though employed on agriculture, should not be classed with cultivators in this connection; but in answer to this, I would point to the intimate relations which exist between cultivators and laborers, particularly in the grain-producing taluks, as proved by the figures and facts contained in Chapter IV, paras. 81 to 84 and 93—95 above. A very large proportion of the actual cultivators are of the cooly class.

The largest number of the dacoits were Hindus.

Māppiḻḻas headed the outbreak.

315. It is further to be noted, Appendix XIII, that the largest number of these convicted dacoits were Hindus. It was generally thought at the time that *Māppiḻḻas* were chiefly concerned in them. *Māppiḻḻas* certainly headed the outbreak of crime, and supplied several most daring leaders, but these figures prove that the causes which led to the outbreak affected the Hindus as much as the *Māppiḻḻas*.

Major Fred. Hole's remarks on the above figures.

316. In regard to the above facts, the Superintendent of Police (Major Fred. Hole) has kindly favored me with the following remarks :—

"I have not the slightest doubt that the very large increase in the number of evictions of late years accounts, to a great extent, for the increase in crime; but there seem to me to be other reasons also for the increase, and the chief of these are—the increase of the poorer classes, the poverty, the difficulty of obtaining employment, and the low rate of wages prevailing, especially in the Waḻḻuvanād and Ernād Taluks. Not having the figures by me, I cannot say what the actual increase amongst the poorer classes is in these taluks, but it must be something considerable. In most parts of these taluks, the daily hire of a laborer is about 2 annas and a feed of rice. Upon this small pittance it is difficult to imagine a laborer, who has a large family (and who amongst them has not) living honestly, and it is not surprising that he, seeing some of his neighbours waxing fat on the proceeds of plunder, should also betake himself to dishonest pursuits. In these two taluks, there must be hundreds, I may say, thousands, of such cases, especially amongst the *Māppiḻḻas*.

"In times of famine prices, the laborers' wages are not raised, and it is no wonder that such poor creatures should take to thieving, to say nothing of the large number of people who are unable to find employment, and who, of course, would rather steal than starve. The evictions may be expected to increase, as, from what I hear during my travels about the district, the *Janmis* fear that the result of the Special Commission will be a change in the existing law, which will check their power of ousting their tenants. The recovery of their lands is, therefore, eagerly desired by them before anything can be done by Government in the matter. With the large number of evicted, and consequently discontented, tenants, the large addition to their numbers that are likely to be soon made if the power of ousting is not modified or checked, the scarcity of employment and the low rate of wages in the dacoity taluks, the increase of the poorer classes, and the large number of dacoits that are now returning from Jail, I am of opinion that we may look forward to an increase rather than a decrease of crime in Malabar, and the *Janmis* will be lucky if they escape as free as they have hitherto done.

"I quite agree that the agricultural classes were driven to dacoity and other forms of crime. The proportion of cultivators and laborers, who were convicted throughout the district, from the year 1876 to 1880, to the total number of persons convicted in the following grave crimes, viz., 1, dacoity; 2, robbery; 3, house-breaking; 4, theft; 5, criminal breach of trust; 6, receiving stolen property, is no less than 89 per cent. as the following figures will show":—

—	Total Number of Persons convicted.	Number of Cultivators and Laborers.
1876	1,410	1,217
1877	2,024	1,717
1878	2,222	2,046
1879	1,765	1,653
1880	1,358	1,240
Total ..	8,779	7,873

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Crime greatly more prevalent among cultivators and laborers than among other classes of the community.

317. Finally, in regard to Major Hole's figures for 1876—1880, I may observe that as agriculturists and laborers form only 69 per cent. of the general population (*see* Chapter IV, para. 83 above), it follows that as 89 per cent. of the convicted persons in 1876—1880 belonged to these classes, crime is greatly more prevalent among them than among the other classes of the community.

CHAPTER VIII.

PROPOSALS FOR LEGISLATION AND OTHER SUGGESTIONS AND CONCLUSION OF THE REPORT.

The above Chapters complete the review of the evidence.

318. Having passed in review the whole of the evidence gathered, it now becomes my duty to submit, as briefly as may be, the conclusions at which I have arrived, and the proposals which I have to offer for the consideration of Government.

The most important conclusion is that security must be found for small holders.

319. The first and by far the most important conclusion to be drawn from the evidence is, that it is absolutely necessary to devise some means for giving to the actual cultivator *of a small holding* full security that if he plants trees he will be left free to gather their fruits, and that if he reclaims land from the waste, he will be left free to enjoy the profits of his labor and capital.

The Actual Cultivator.

It is the position of the actual cultivator which deserves the most careful consideration.

320. It is, as I have already pointed out more than once, (Appendix II, Chapter IV; and Chapter IV, paras. 85 to 87 of this report), the position occupied by the actual cultivator which deserves the most careful consideration at the hands of Government. And by actual cultivator I mean not merely a tenant of the land, but the cultivating proprietor, or the farmer who rents and cultivates the land employing hired labor, or the renting cultivator, pure and simple, who is dependent for the necessary labor on the services of his own family. The man, in short, whoever he be who finds the labor and capital necessary for cultivation, and who accepts the risks and takes the profits of the cultivation work to which that labor and capital are applied, is the man whose position it seems to me to be most necessary to secure.

The actual cultivator defined.

The problem becomes more difficult if the consideration of who pays and who receives rent is brought in.

The Bengal legislation on this subject.

321. If the consideration of who pays rent and who receives it is brought in, the problem becomes infinitely more difficult of settlement, because the ground underfoot (so to speak) is so shifty. The man who cultivates and pays rent now may next year be a man entitled to rent for the same ground from somebody else. And this is most forcibly illustrated in the case of the Bengal legislation on this subject. There, in the course of time, the positions of the following classes, who are all interested in the produce of the soil, have obtained legislative recognition, or recognition by the Courts :—

(1) The proprietor.
(2) The tenure-holder.
(3) The under-tenure-holder of the 1st degree.
(4) The do. do. of the 2nd do.
(5) The do. do. of the 3rd do. (and so on in order.)
(6) The ryot.
(7) The under-ryot.

Moreover, there seems to be nothing in the law to prevent the further increase of "Under-tenures," and as respects the "Ryot" three other distinct classes are recognised, viz. :—

(1) A ryot having a right of occupancy and entitled to hold at fixed rates.
(2) A ryot having a right of occupancy but not entitled to hold at fixed rates.
(3) A ryot not having a right of occupancy.

And, finally, as regards the "Under-ryot," whose position is defined by the case-law of the Courts and not by Statute, it appears that although he cannot give a right of occupancy, nor transfer his interest in the soil, he may yet do so with the consent of his landlord, so that there is nothing to prevent the springing up of still other classes intermediate between the proprietor and the actual cultivator (Mr. Field's Digest, Articles 1, 37 to 52, and 53).

In Bengal there may be a dozen "landlords" and a dozen "tenants" to one piece of land.

322. The result of all this is shown by the actual state of the relations as now existing in the Backergunge District where "the following gradations, complete or incomplete, may be found:—(1) Zemindari, (2) Talook, (3) Zimba Talook, (4) Shamilat Talook, (5) Ashat Talook, (6) Nim Ashat Talook, (7) Howla, (8) Ashat Howla, (9) Nim Ashat Howla, (10) Nim Howla, (11) Ashat Nim Howla, (12) Mirash Karsha, (13) Kam Karsha, (14) Karshadar or ryot" (footnote to page 2 of Mr. Field's Digest).

The position of the actual cultivator is thus lost to view, although it is he who pays everybody.

"Landlord" in Bengal has the restricted meaning of "a person to whom a tenant is liable to pay or deliver rent," and as "tenant" is explained to mean one who is "liable to pay or deliver rent," and as "rent" is defined to mean "whatever is periodically payable or deliverable as a return or compensation for a tenure, under-tenure, &c., &c.," it follows that to each field there may be a dozen or more "landlords," each with a distinct and separate interest, and a dozen or more "tenants," each with a distinct and separate interest in the produce of the soil. The position of the "actual cultivator" is thus lost sight of, although he is the person who pays everybody, and to whom alone the Government should look, all others being mere investors of their money.

The chief condition which led to this in Bengal prevails also in Malabar.

323. It is unnecessary here to allude at any length to the way in which all these classes have sprung up; it will be found explained in pages 164 to 166 of Mr. Field's paper on the "transferability of ryots' holdings," appended to the "Digest." So far as can be judged, it is due chiefly to the necessities of the Zemindars, which obliged them to borrow. They pledged their waste lands as security for their debts. *Janmis* in Malabar have similar rights over waste, and the state of the facts in Bengal points, I think, to the urgent necessity there is in the case of Malabar not to attempt to define, by legislative enactment, the position of any of the classes, who, from perfectly natural causes (as in Bengal), have obtained or may hereafter obtain positions intermediate between the *Janmi* or proprietor at the top, and the "actual cultivator" at the bottom of the list.

If the position of the intermediary is once recognised, other classes of intermediaries will inevitably spring up.

More especially if freedom of contract is retained.

324. If legislative recognition is once accorded to the position of the existing intermediaries, the questions at issue become infinitely more difficult of settlement, because (as in Bengal) it will be found impossible to withhold legislative recognition to other classes which will inevitably spring up. And legislation will end, as it seems to have done in Bengal, in a quagmire (so to speak) where the legislators vainly attempt to touch the sound bottom of what is really bottomless so long as the leading principle * of that legislation, viz., freedom of contract is adhered to.

Unnecessary to legislate for people who are mere investors of their money, and who contribute nothing to the wealth of the country.

This may seem hard on the *Kāṇakkār*, but any other scheme involves a departure from the policy of the last ninety years.

325. Nor does it seem necessary on any other ground to legislate for people who are mere investors of their money, and who contribute nothing towards the wealth of the country. It may seem hard, looking to the former position of the *Kāṇakkār* or protector guild as defined in these papers, to deny them the right which they, in my opinion, undoubtedly held at the commencement of British rule in Malabar to a certain customary share of the produce of the soil; but, on the other hand, is the policy of the last 90 years to be now undone, and is the *Janmi* to be no longer recognised as the proprietor of the soil?

The policy of regarding the *Janmi* as proprietor cannot now be reversed.

326. I do not see how this policy, however fortuitous may have been its origin, is now to be reversed, for apart from other considerations the Government has itself sold its *Janmam* rights in Rs. 30,00,000 worth of escheat lands, and the purchasers have been treated as proprietors of the soil.

* Article 2 of the Digest and footnote.

327. It is true that in Travancore some steps have been taken to secure to the *Kāṇakkāran* a position of permanence on the soil more in accordance with his ancient position, and this has commended itself to some* of the petitioners as a desirable thing for the same class in Malabar. The circumstances of the two countries are, to a certain extent, alike, and the argument has, therefore, some weight; but the action of the Travancore Government in this matter has never been cordially accepted by the people, and more especially by the *Janmis*, and I learnt at Trivandrum that the whole question is likely to be again brought up before long.

The example set by Travancore on this point considered.

The question is cropping up again in Travancore.

328. It is evident, for reasons which will be alluded to presently, that it is at best but a make-shift policy, and that it fails to touch, except partially, the real difficulty which lies in the impoverishment of the actual cultivators. A law which gave the cultivating *Kāṇakkāran* a right to permanency of tenure would be a good law so far as it went, but, in my opinion, it would fail if it did not give equal security to the other classes of actual cultivators who are most frequently sub-tenants of the *Kāṇakkāran.*

It is at best a make-shift policy, and fails to touch the real difficulty, the impoverishment of the body of "actual cultivators."

329. The action of the Courts during these ninety years of British rule has completely changed in a large proportion of cases the *personnel* of the ancient *Kāṇakkār* or protector guild. However just, therefore, might have been the claims of the persons who were *Kāṇakkār* at the time of the British accession, it would manifestly be unjust to put on a footing of equality with them the persons who have since acquired *Kāṇam* rights in the sense in which the Courts now understand those rights.

During these 90 years the *personnel* of the protector guild (*Kāṇakkār*) has changed.

330. It is also clear from the facts alluded to in Chapter IV, Section III, Sub-section 2, that even on estates where the *Janmis* have been slow to utilise the new position conferred on them by the British Courts, the *Kāṇakkār* themselves, the descendants or representatives of the original men, have, in the vast majority of cases, broken through the rules regulating the old customary sharing of the produce, and are now taking from the actual cultivators rents determined by the competition of coolies. In all such cases, therefore, if the *Kāṇakkāran's* ancient position was conferred on him by legislative enactment, steps would still have to be taken to secure the actual cultivator from degenerating into a position of insolvent cottierism, or to relieve him from that position in cases in which it has already been reached.

The "actual cultivator" would be no better off under a *Kāṇakkāran* than under a *Janmi.*

331. At the same time, I think that on estates where the old condition of things still holds good (as for instance, on the three estates mentioned in Chapter IV, para. 165), and where all parties are still content to go on, on that footing, it would be only right and just to devise some means whereby the long subsisting good relations between the parties should not be disturbed.

On estates where the ancient customs have been adhered to means might be devised for their continuance.

332. That, however, is, I think, the only exception which should be allowed to the rule, and, in all other cases, it seems to me that the only person to whom the Government should look in any legislation that may be considered necessary should be the actual cultivator of the soil.

That however is the only exception that should be made to the rule of securing the "actual cultivator" in his industry.

333. Assuming, then, that the actual cultivator of the soil is the only person whose position requires to be secured, the next questions that present themselves are—

Questions for consideration.

(*a*) How is his position at present menaced? and,
(*b*) What measures should be devised to secure to him the full reward of his industry?

* Nos. 882, 914, 1256, 1488.

The Insecurity of the actual Cultivator's present Position.

Actual cultivators.

334. The actual cultivator may be either—

(i) The proprietor of the holding; or
(ii) A tenant cultivating the land either with or without hired labor.

The cultivating proprietor.

335. In the case of the cultivating proprietor his position is already fully secured by the ordinary law of the country.

The landlord's power of ouster over cultivating tenants.

336. In the case of tenants cultivating the land, either with or without the assistance of hired laborers, the law at present recognises in the landlord a power of *ouster* which has gone far to neutralise the benefits of the other well-conceived provisions of the customary law for securing to the tenants the rewards of their industry.

Tendency has been to secure freest possible exercise of this power.

337. The tendency of all the landlords' measures has been to secure to themselves a still freer exercise of this power of *ouster*. Even in cases in which the *Kānam* tenant would ordinarily be protected in the possession of his holding for a term of twelve years, the landlord now, in many cases, inserts in the deed a clause (*see* Deed No. 55 in Enclosure 2 to Appendix I) binding the tenant to deliver up the land "on demand;" and express agreement to surrender "on demand" has been held by the High Court as a reason sufficient for cancelling the lease before the expiration of the customary 12 years' term (*see* clause (*f*) of Note 4 under *Kānam* in the Glossary to Appendix I), and again it has been noticed under Chapter IV, paras. 133 to 143, that there is a tendency in favor of ordinary leases and more particularly in favor of leases from year to year or at will, and that this tendency is more marked in the case of leases for grain lands than in the case of leases for gardens. This tendency is the result of a desire on the part of the landlords to secure to themselves a still freer exercise of the power of *ouster*.

The evidence as to eviction suits from Judicial Registers.

338. The same thing is clearly proved by the steady increase in the number of eviction suits in the last twenty years (Chapter IV, paras. 147 to 151). One out of every twenty cultivators has now a decree passed against him annually for eviction.

Why do the landlords desire the freest possible exercise of this power?

339. What is the meaning of this desire for the freest possible exercise of the power of *ouster?* And why have eviction decrees become so much more numerous of late?

The landlords are raising their "rents" above their ancient customary shares of produce.

The *Māppilla* outrages directly traceable to this.

340. The answer, of course, is that landlords are raising their "rents" above their ancient customary shares of produce, and that this is the readiest means which the law puts at their disposal for effecting that end. The *Māppillas* saw and realised this fact many years ago, and organised the *Māppilla* outrages to put a stop to it. They decreed death against a landlord who evicted a respectable tenant, and they called in the aid of their religion to give its sanction to this "pernicious doctrine." (Appendix I, paras. 265—268). But the outrages were temporarily suppressed, and landlords gaining confidence have, in the last twenty years, resorted with increasing freedom to this means of bettering themselves. The recommencement of the outrages in the last decade, notwithstanding the enormous penalties imposed by the law, is, in my opinion, entirely attributable to this same cause.

Why should not landlords raise their "rents"?

341. But it will be asked why should not landlords raise their rents if they have the opportunity? And to this I would reply, I see no objection whatever to the mere raising of rents; indeed, a community in which the rents do not rise cannot be considered as a progressive community at all. On the other hand, however, there are many objections to the raising of rents when the increased rent comes (as it does chiefly and *in an increasing ratio* in Malabar) not out of the profits of capital, but out of the scanty wages of the cooly cultivator; and the first and most obvious objection is, that the cooly cultivators who are (so to speak) the back-bone of the country are more and more impoverished with every succeeding rise in the rent of the land on which they are solely dependent. This impoverishment leads to increase of crime as the facts in Chapter VII explicitly prove, and sets in train other obvious and most serious evils, including famine and disease.

342. While, therefore, the landlords are perfectly within their rights in taking increased rents if they can get them, public policy, it seems to me, necessitates that these increased rents should be taken not out of the wages of labor, but out of the profits of capital.

Increasing "rents" must come out of the profits of capital, not out of wages.

343. Public policy also seems to me to carry the matter a step further, for it is manifest that tenancies from year to year or at will, which are rapidly on the increase, especially in the grain-producing parts of the district, can never admit of that full development of the cultivators' industry which the country imperatively requires looking to the rapid strides in population which it is making. No man will set himself to make the most of land from which he is liable to ejectment at the end of each twelve months. In that time he can hope to raise, in ordinary cases, one or at most two crops of grain in the year; but he will not manure his land for more than the crops he can count on reaping, and the term of his lease is too short to permit of his making permanent improvements in the soil.

Year-to-year leases which are increasing in number hinder the development of agriculture.

344. Cooly cultivators with no other industry to resort to, and that is the position which all classes of tenants in Malabar are rapidly assuming, must, it seems to me, be somehow or other relegated to the work for which they are best fitted, and that is, to labor for hire under the thrifty classes who have acquired some capital. I must not, however, be understood as thinking that coolies should remain coolies all their lives, and, in fact, one of the proposals I have to submit will be pointedly directed towards enabling them by thrift, foresight, and industry to acquire the position of small capitalists.

Cooly cultivators must somehow be relegated to their proper function of laboring for hire.

But, at the same time, an opening must be found for them to raise themselves.

345. It might be thought at first sight that the now well-recognised law of Malabar, which entitles every man to claim the value of his improvements when he is ejected, secures the actual cultivator against loss, but this is far from being the case. In the first place, what motive can a cultivator, liable to ejectment at the end of each twelve months, have to make improvements at all? His tenure is so short and uncertain that he would be a fool to do anything beyond what is absolutely necessary to raise the crop he can reap within the term of his twelve months' lease.

In what respects the Malabar law of giving a man the value of his improvements fails.

A year-to-year tenant has no motive to improve.

346. A cultivator makes improvements on his holding not for some one else to enjoy, but that he may enjoy them himself. Compensation for improvements on eviction is, therefore, at best but a sorry remedy for the real grievance that a man suffers when he is not permitted to enjoy the fruits of his own industry. His improvements are to him real property, and to give him compensation for them on eviction is simple expropriation of this property.

Paying a man for his improvements is simple expropriation of his property.

347. On this point the ancient customary law of Malabar, which I have alluded to in Chapter III, para. 67, and in Chapter IV, paras. 111 to 117, and 179 to 185, proceeded on the equitable principle of allowing a man to sell his property consisting of the improvements on the soil of his holding, and this principle should, it seems to me, be acted on in any legislation which may be undertaken.

The customary law of Malabar permitted a man to sell his improvements, and this is a principle which should be adhered to.

348. It is true that this equitable principle is still recognised by the Courts, but here again the power of *ouster* conferred on the landlord has gone far to neutralise the benefits of this principle to the tenant. What a tenant now buys from another tenant is not the full market value of the improvements which that other tenant may have made on the soil, but the reputation for leniency of the landlord of the soil. If the latter is hard and is determined to use his power of *ouster*, the out-going tenant certainly does not receive the full market value of his improvements, because, of course, the in-coming tenant has to take into account in fixing the price he will pay the terms which he may expect to receive from the landlord.

The Courts still recognise this principle, but the landlord's power of *ouster* has almost neutralised its benefits.

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Cultivators would have no real grievance if the landlord were to pay the "full market value" of their improvements.

But who is to fix this value?

349. It will, of course, be urged that the tenants can have no real grievance, if, on eviction, the landlord pays the full market value of the improvements effected on his land, but to this, I think, the conclusive reply is—Who is to fix that full market value? At present, the landlord has to go to Court, and Court Fee Stamps and Commission Fees and other expenses must be paid by somebody. If paid by the landlord, they must be a very real addition to the market price of the improvements. If paid by the tenant, they diminish *pro tanto* the value of his property. And, finally, the settlement of market values through the Courts is at present, as I have shown in Chapter IV, paras. 195—203, a most unsatisfactory way of arriving at the price. Even supposing that all Court establishments were in a state of the strictest discipline and that all Court Commissioners were men of the highest probity and of the greatest skill, there still remains the difficulty which any one can test by a simple practical case of fixing what would be considered by all parties the full market price. This, however, is taking an extreme case, and I assert that the Courts, organised as they are at present, or as they are likely to be for at least a generation or two to come, are incompetent to deal with this question in a manner to satisfy all parties, or even the greater number of the parties.

The conclusive reply to all suggestions on this point is the expense and the unsatisfactory character of the work done.

350. I have looked at this question from all points of view, and numerous suggestions have been offered, such as the organisation of special assessors under proper control to do this special work; but to one and all the conclusive objections are that the expenses would add to, or run away with, a large share of the price that might be fixed, and that the price so fixed would not be a satisfactory one to the people interested.

I have been forced to the conclusion that as a thing is worth just what it will fetch in open market, that is the only plan not open to grave objection.

351. The position I have been *forced*,* slowly and reluctantly I must admit, to take up on this subject is, that a thing is worth just what it will fetch in open market, and that the only course which is not open to grave objection is to revert to the old customary law of the country, and to allow people to traffic freely in their property consisting of the improvements effected on their holdings.

Exception to this rule when the landlord wants his land for other purposes than agriculture or for improving cultivation.

352. The only exception which ought, in my opinion, to be allowed to this general rule is that when the tenant's interests clash with any scheme either for utilising the land for other purposes than agriculture or for improving generally the cultivation on an estate, the tenant's interests should give way, and in such *exceptional* cases the obvious recourse is to the principles of the law for expropriating property for public purposes.

Conclusions stated.

353. Stated shortly, then, my conclusions are—

(*a*) the only person interested in the soil to whom the Government should look is the actual cultivator;
(*b*) the landlord's power of *ouster* must, in the public interests, be curtailed;
(*c*) the landlord is perfectly entitled to take a competition rent, provided he is dealing with capitalists; and,
(*d*) the tenants must have the full benefits of the ancient customary law entitling them to sell the improvements on their holdings.

Proposed Statutory Tenure for small Holders.

Proposal to legislate in favor of small holders.
The conditions of the proposed Statutory lease.

354. To attain these ends, legislation is obviously necessary, and I recommend that a law should be passed regulating the relations of the actual cultivator with his landlord. That law, it seems to me, should provide for certain compulsory conditions† in all leases‡ granted

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* *See* para. 10 of my letter printed with the Government Order nominating me to these duties.

† It would not be necessary that these conditions should be entered in detail in every lease. The lease would be subject to them whether entered in the lease or not. All stipulations contrary to these conditions would, of course, be invalid.

‡ These leases must invariably be in writing. There will be no difficulty in this respect in Malabar, where, as matter of fact, all leases are already committed to writing.

to actual cultivators of small holdings, and the conditions I recommend for adoption are as follows:—

The Tenant's position.

(*a*) The actual cultivator of a holding, being the property of a single landlord, and not exceeding, in extent, 25 acres of wet or dry grain-crop land, or 5 acres of garden, shall have—

Right to permanency of tenure.

(i) A right to permanency of tenure with remainder to his heirs, representatives, or assigns.

Right to use soil to the best advantage.

(ii) A right to utilise to the best advantage for agricultural purposes the soil of his holding.

Right of transfer of interest.

(iii) A right to sell, give, or transfer his interest in the whole of his holding, and, with the landlord's written consent, a right to sell his interest in a portion of his holding at the best price he can obtain for it.

Right to his ancient customary share (⅓) of the net produce.

(iv) A right from date of entry on possession to a share not less than (⅓) one-third, his ancient customary share, of the average annual net produce of his holding, estimated in kind, not in money, at the time of his entry on possession.

Right to Government share of produce at Government commutation rate, if he pays the assessment.

(v) A right to the Government share of the produce estimated in kind and converted into money at the commutation rate fixed by Government, if the land revenue assessment is payable by him.

No right to mortgage.

(vi) No right to mortgage his interest in his holding or in any portion of his holding.

No right to subdivide or sublet.

(vii) No right to subdivide or sublet his holding, or any portion of it (except for temporary purposes to prevent the land lying waste till some contingency happens).

The Landlord's position.

(*b*) The landlord of a holding, not exceeding 25 acres of wet or dry grain-crop land, or 5 acres of garden, shall have—

Right to two-thirds of the net produce as rent.

(viii) A right, subject to Clause v, to reserve as rent payable periodically, either in kind or in money, a share not exceeding the remaining (⅔) two-thirds of the average annual net produce of the holding, estimated in kind, not in money, at the time of entry on possession by the actual cultivator.

Right to sell, for the best obtainable price, the cultivator's rights to make improvements and to one-third of net produce.

(ix) A right to sell to the actual cultivator on entry into possession, at the best price he can obtain for them, the actual cultivator's right to raise improvements on the holding (Clause ii) and the actual cultivator's right to his ancient customary share, (⅓) one-third, of the net produce (Clause iv).

Right of pre-emption at sales.

(x) A right of pre-emption at sales, whether public or private, of the actual cultivator's interest in his holding.

Right of veto on tenant's transferee.

(xi) A reasonable right of *veto* against the person to whom the actual cultivator may wish to transfer his interest in his holding.

Right of veto on sales of portions of holding and right of *ouster* if tenant mortgages, subdivides, or sublets.

(xii) A right of *veto* on the sale of a portion of a holding by the actual cultivator, and a right of *ouster* if the actual cultivator, contrary to Clause vi, mortgages, or, contrary to Clause vii, subdivides or sublets his holding.

Right to recover land for other purposes or to improve property.

(xiii) A right to recover the land from the actual cultivator for reasonable schemes for utilising the land for other purposes than agriculture, or for improving generally the cultivation of his property.

(xiv) A right to recover arrears of rent (not being less than one year's arrears) by the sale of the actual cultivator's interest in his holding, and a right to recover any arrears as a first charge on the proceeds of any sale, public or private, of the actual cultivator's interest in his holding.

Right to recover arrears of rent by sale of tenant's interest, and as a first charge on proceeds of a sale.

(xv) A right to let his land for temporary purposes (to prevent the land from lying waste till some contingency happens).

Right to let land for temporary purpose.

(xvi) A right to eject the actual cultivator if he makes any change in the holding with a view to cause wilful damage to the landlord.

Right to eject a spoliating tenant.

Detailed Consideration of the Conditions of this proposed Statutory Tenure.

The main idea of these proposals is to treat the right to cultivate like an ordinary chattel.

355. It will be seen that the main idea embodied in the above proposals is, to chip (as it were) from the block of aggregate rights which centre in a fee simple owner, a portion of the block containing the right to cultivate, and to permit that chip to be sold and bargained for and generally made the most of by the persons concerned, just as they would sell and bargain for and generally make the best of (say) a bullock or a log of wood. This seems to be, as already explained (Chapter IV, paras. 179 to 184), in accordance with the principles of the ancient customary law of Malabar, although, of course, that law was the issue of a state of society very different from the present.

This is probably in accordance with the ancient law.

This is only necessary at present in regard to small holders.

356. But there is at present, I think, no reason to provide for this, except in the case of small holders, for men of capital can and ought to make their own terms with the landlord, if they wish to take up his lands for agricultural purposes.

Views regarding capitalist cultivators.

357. My view in regard to capitalist cultivators is, that any State regulation of the terms on which they hold their land is justifiable only on the ground that the State requires that the utmost possible amount of produce shall be raised from the soil. Public opinion on this point is hardly as yet sufficiently formed. The State at present permits a landlord to use his land as any other capitalist would use his capital. He may hire it out for the best terms he can obtain for it, and the hirer is bound by any regulations he may see fit to impose as conditions of the hiring, and, under such circumstances, it is obvious that at present the capitalist cultivator requires no protection. He accepts the conditions imposed, and it is to be presumed that he would not have accepted them if he had not seen his way to recover his capital with the usual interest thereon. The case may become different, however, when public opinion has finally made up its mind that the soil of the country must be so used that the utmost possible return of produce shall be exacted from the soil of the State. It will then become necessary to consider how this end is to be attained, and it may be confidently predicted that landlord's interests and State interests will not be always found to agree, and that the State will require to step in to set matters right.

Deterioration of the soil even under scientific cultivation.

358. Scientific cultivation necessarily implies improvement of the soil, and the interests of a scientific cultivator holding at a competition rent require that if his occupancy of the soil is limited in time, he shall take out of the soil in the few last years of his lease as much as possible of the capital he has sunk in it. He must, during those last years, take out of the soil more than he puts into it; and the result, of course, is that the soil is handed back to the landlord in a deteriorated condition. This deteriorated condition cannot be set right at once, and the State loses the difference between the produce which the land could yield while in a condition of high culture, and the produce it yields during this period of deterioration.

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Loss of produce even when the land is under scientific cultivation if the occupancy right is limited in time.

359. Again, it is a well-recognised fact that there is hardly any limit to the amount of capital which can be profitably sunk in the soil by an agriculturist; but when high cultivation is resorted to, the time of waiting for the profits to arrive becomes more and more extended, and hence an agriculturist holding land for a time limited is precluded from doing many things which, if his tenure was more secure, he would certainly attempt. The loss of produce to the State by this lack of security is very great.

This question is not yet ripe for settlement.

360. I am very far from thinking that landlords might not do a great deal more than is done at present to prevent this deterioration and these losses of produce; but the question is not ripe for settlement even in countries where cultivation is far more advanced than in Malabar, and *à-fortiori* it would be useless for me to attempt on the present occasion to provide for a contingency so remote.

Capitalist cultivators in Malabar are in a better position than their fellows elsewhere.

The law of the land is that a cultivator must improve his holding, and must be paid for his improvements on ejectment.

Necessity for maintaining these provisions of the customary law.

361. Capitalists who take to cultivation in Malabar, and I hope to see many more do so in future, must, for the present at least, protect themselves, and those who do so will have the comfort to find that in two respects their position is much more favorable than that of their fellows in more advanced communities; for it is the law of the land that the cultivator shall improve the soil, and shall be paid the value of his improvements before ejectment. These are such important provisions of the customary law, and their maintenance is of such great public importance that it might well be thought necessary specifically to declare them in the proposed new enactment, and to direct that contracts avoiding them shall be invalid. Nothing more than this, however, is, in my opinion, required at present for the protection of the capitalist.

Who is a capitalist cultivator, and who is not?

362. The difficulty is to decide who is a capitalist, and who is not, and in what cases the cultivator deserves to receive protection, and in what cases he ought to be left to protect himself.

Native Officials consulted.

363. I have given this point the most careful consideration, and I have consulted all the most intelligent of the native Revenue and Judicial officials of the district,—all of whom are more or less interested in the pending question, some as landlords, some as tenants, and some partly as landlords and partly as tenants.

Holdings are on a small scale.

364. There can be no doubt that throughout the district holdings from individual landlords are on a small scale, and are diminishing in extent gradually but very perceptibly. The reason, of course, is that a cooly cultivator cannot afford to take a big block. Land thus becomes divided and subdivided, and passes by sale in these minute divisions.

Large holders have to hire their land from a large number of landlords.

365. A man who cultivates on a considerable scale, and there are a good many such still left, particularly in South Malabar, has therefore to hire his land in minute blocks of a few acres each from a large number of landlords. A considerable cultivator has frequently a dozen or more landlords, and the biggest contiguous block held from any one of these landlords is, comparatively speaking, of inconsiderable size.

The size of a holding is the only practical test of a cultivator's independence.

366. On the other hand, the size of a holding is the only *practical* test that I have been able to discover of a cultivator's independence, for, if other considerations are allowed to come in, it would, I feel sure, be found impossible to arrive at any distinct definition to govern all the cases that would arise. Legislation must be definite and certain, and so I conclude that the measure of a cultivator's independence must be fixed with reference to the size of his holding from any one landlord.

Limit fixed at 25 acres of grain-crop land.

367. The holder of any thing over twenty-five acres of grain land in any part of the world would not be looked on as a man of much capital and independence, but after giving the matter the fullest consideration with reference to the existing state of things in all parts of the district, I have come to the conclusion that that is the limit which would

suit best for defining a grain-land cultivator's independence in Malabar. Some of the officers consulted seemed to think that in some parts of the district, particularly in the north, this limit would be too small, and in others, particularly in the south, that it would be too large; but the majority seemed to think that the boundary line between independence and the reverse would be effectually fixed, for the present at least, by this definition.

The difference between grain-crop cultivators and gardeners.

368. As to gardens a good deal has already been said (Chapter IV, paras. 133 to 143) about the difference in position between renters of grain-crop lands and renters of gardens. The latter, even though their holdings are small, are, to a great extent, in independent positions, because so much lies in their power. If they are rack-rented, they take all they can get out of the trees, and put back as little as possible, and, at the next letting, the landlord finds this out to his cost.

A garden cultivator is independent if he has enough land fully to employ his family.

The limit of independence fixed at anything over 5 acres.

369. The measure of independence in their case, as tested by area under crop, is consequently very different to that of the ordinary wet-land cultivator; and if they have an extent of land capable of *fully* employing the labor of an ordinary family independence is, in my opinion, secured. The limit of independence in their case I take to be as anything over 5 acres, and on this point nearly all the officials consulted are unanimous. One or two were inclined to recommend a larger area for gardens in some of the inland parts in the south of the district, but the idea on which this recommendation was based was that it was necessary to secure to a family enough land fully to occupy them in cropping the uplands, now usually cultivated with hill-rice and other grains. It is true that such lands are also (like coconut gardens) called *parambas;* but there is a vast difference between them, and no such cultivation can properly be styled garden cultivation. If such lands are rented in smaller blocks than 25 acres, the renters would, under the rules proposed, have to be put in permanently, as being renters of grain-crop lands.

The limits thus fixed.

370. After careful consideration, therefore, I think that the line should be drawn at men who take up blocks of land not less in extent than 25 acres of wet or dry land, or 5 acres of garden. Such holdings require a considerable amount of capital to be laid out in stock and in implements and other things, and in the case of grain land in gathering together and providing for the necessary band of laborers.

The word "landlord."

371. The word "landlord" requires a few remarks. I would define the word as meaning the person from whom the actual cultivator holds his land.

The "landlord" may not be entitled to "rent."

372. The terms arranged between them may be such that none of the produce will be reserved for the "landlord," so that to define "landlord" as meaning the person entitled to "rent" from the actual cultivator will not suffice. It will, in the future as in the past and present, be quite competent, for instance, for a "landlord" to mortgage the whole of his two-thirds share of produce to the tenant for a definite or indefinite time instead of to a mere money-lender, and to redeem it when the time is up. Meanwhile, no "rent" would be payable by the tenant to the landlord.

The "landlord" might be a permanent tenant.

373. Then, again, the "landlord" might not be the proprietor of the holding in the European sense; he might be a permanent tenant. It is to be observed that he would not be in a position to grant *permanent* tenures to the statutory small holders, unless the power of subletting *permanently* was conveyed in his deed. This is clearly necessary to prevent landlords getting round the provisions of the proposed law by letting their lands in large blocks to persons who would then sublet them to small holders. Whoever the "landlord" may be, he must be in a position to grant permanent tenures to small holders if he wishes to sublet.

Clause I.

374. As regards the first proposed condition (Clause I) enough has perhaps already been said. After very careful consideration, I have come to the conclusion that there is no other practicable mode of restricting the landlord's power of *ouster*, which has been so much abused of late years. It will be recollected (Chapter III, para. 70; Chapter IV, paras. 102—104) that this was a novel power put into the hands of the *Janmi* by the British Courts, who viewed him in the light of a European fee simple owner. He had no such right before the British occupation, for the renewal fees taken from the *Kānam* tenants had their origin in feudal ideas of succession, and not in any right to deal with the land in the sense of a European *dominus*.

Clauses II and III.

375. Enough has also perhaps been said about Clauses II and III. In them is embodied the ancient customary law of the country restricted, however, to prevent subdivision of a holding without the landlord's consent.

Clause IV read in connection with Clauses VIII and IX.

The cultivator's ancient customary share of produce.

Reserved for him in all British Land Revenue Settlements.

376. Clause IV requires a somewhat detailed notice, and it ought to be read in connection with Clauses VIII and IX. The actual cultivator was in former times entitled to one-third of the net produce as his share (Appendix I, para. 225), and in every British Settlement of the Land Revenue on permanently-cultivated lands this share has always been reserved for him when the Government share is based on a division of the produce (Appendix II, paras. 226, 226 (*a*), 254, 260, 285, 305, 306; Appendix III, Nos. 15, 16, 17, and 23). Moreover, the chief landed proprietors assembled by Mr. Rickards in 1803 to consider this very point among others unanimously agreed to this share being assigned to the actual cultivator (Appendix III, No. 17). The facts put forward in Chapter IV, Section III, Sub-section 2, of this report sufficiently establish the fact that the great bulk of actual cultivators of the present time do not enjoy a share of the produce in any degree approximate to what was thus reserved for them by the consent of all parties in 1803. On these grounds I propose to reserve to the actual cultivator and to make effective, in cases which require it, the rights thus assigned.

The estimates of net produce should be made at the beginning of the tenancy.

377. The shares, one-third to the cultivator and two-thirds to the proprietor, are to be estimated,* it will be observed, at the commencement of the actual cultivator's term of possession. This is only right for it will then depend entirely on the cultivator's exertions, whether additional produce is raised from the holding or not. Any additional produce that he can manage to raise will rightly belong exclusively to him. The estimate (which should be made by the parties themselves) should be embodied in the lease in detail, and the actual cultivator should be allowed a reasonable time within which to apply to the authorities for a revision of the estimate, if it is found to be grossly fallacious. These revisions of estimates should, however, be made most cautiously, and no action should be taken, unless the estimate is, as already said, grossly fallacious.

Objections to the formation of such estimates considered.

378. It may be urged as an objection to the formation of such an estimate that wages of labor, and perhaps some other items, must be calculated in money, and that if wages are so calculated what would be a fair allowance for labor now may be ten years hence an altogether insufficient allowance. This is true, no doubt, to a certain extent, and may become still more so as time rolls on, and as the custom of paying agricultural laborers in kind (almost universal in Malabar at the present time) dies away. But then it

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* The estimate should be stated in any well-known local measures or weights, and if special measures or weights are used, their equivalents in well-known local measures or weights must be specified. (*See* Chapter V, para. 252).

must be remembered that I am endeavouring to provide security not for capitalist farmers who use hired labor, but for cooly cultivators who, with the grown-up members of their families, will supply all or nearly all the labor required on these small holdings. This makes a most material difference, and the share of produce set apart for labor (*valli* as it is called) is likely always to be sufficient to keep the cultivator and his family from starvation when the holding consists of grain lands. In the case of gardens, which are capable of indefinite improvement, if the share of produce reserved for labor becomes by the action of prices too small, it is likely that long before the pressure will begin to be really hard, the cultivator, if he is properly instructed, will have turned his attention to other kinds of garden products, which will yield him a better return in money.

The estimates are to be in kind not in money, though the landlord's share may be taken in money.

379. Again, the shares are to be estimated in produce not in money, although the proprietor's share may be paid in money. This seems to be most necessary, for shares of produce, commuted into money payments at fixed rates, alter most materially in the course of a few years. No more striking example of this can be cited than what has happened in the case of the Government wet-land assessments. These remain precisely the same as they were at the beginning of British rule, and yet taking the average of the district the money assessments now collected are to the money assessments formerly levied as 34 is to 86 when reduced to the common standard of the produce share. (Appendix I, para. 219). The reason, of course, is that the prices of produce have risen enormously in the interval. Any estimate, therefore, founded on current market prices of produce could not be relied on for any length of time, and the best arrangement will be, in my opinion, to allow the parties, when the proprietor wishes to take his share in money and not in produce, to name in the lease the average market price of the previous twelve years, and to keep that rate in force for a similar number of years to come. At the expiration of that period, the commutation rate should be revised with reference to the market prices of the twelve years that had elapsed, and the money rent should be altered accordingly. Any shorter term than twelve years would not, I think, give a satisfactory average.

Official quotations of prices should embrace all staples.

380. While on this point I may observe that the collection of statistics of prices in Malabar is at present very defective; official quotations should certainly be given of the weekly prices at the head-quarters of each taluk of all the staple articles of produce.

Clause IX, at first sight seems nugatory of Clause IV.

381. Finally, in regard to Clauses IV, VIII, and IX, it will be observed that I propose that the proprietor shall be at liberty to sell to the actual cultivator for the best price he will give the right to raise improvements on the holding (Clause II) and the right to the one-third share of net produce reserved for the actual cultivator by Clause IV. This, at first sight, may seem to be nugatory of Clause IV altogether, but it is not so intended, as I shall now proceed to explain.

The necessity for Clause II.

382. Clause II is necessary, because in one or two instances which have come to notice the ancient customary law of Malabar is being departed from, and the cultivator is beginning to be saddled with conditions which prevent him from making the best possible use of the soil of his holding, and this hampering of the cultivator's operations may increase.

Necessity for giving the "landlord" power to sell the inherent good qualities of his soil.

383. But if permanency of tenure at a fixed rate of produce rental is given as proposed to the actual cultivator, the landlord will be shut out from any future advantage which he would derive from the inherent good qualities of his soil. At present, he gets that advantage by being able to increase his rent, and he utilises, if necessary, his power of ouster in order to force his tenant to give that increase. He will be debarred from that course if my proposals are sanctioned. And, therefore, it seems necessary that at the outset of his relations with his tenant he should be at liberty to take from him a sum to be mutually fixed as the then current price of the landlord's interest in the inherent good qualities of the soil for agricultural purposes. The tenant may make a good bargain, or he may make a bad one. In either case, perfect justice is done to both parties, and the main principle of my proposals is main-

tained. That principle, as already explained, is to chip a piece off the block of *Janmam* rights and to allow it to be sold and bargained for and generally made the most of like any piece of moveable property.

Could the landlord's interests not be protected by giving him power to bargain for an increasing share of produce?

384. It may be suggested that the landlord's interest could be equally well secured by permitting him to bargain at the beginning of the tenancy for a share of any increase which the tenant might expect by improved modes of agriculture to reap from his holding, but there is, to my thinking, a conclusive argument against such a course.

The persons to be protected are small holders to whom inducements must be held out to be thrifty.

385. The persons who require protection are the small tenants with whom we are now dealing, and it is of the utmost importance, it seems to me, to hold out to them inducements to be thrifty and to accumulate capital. If the alternative now being considered were adopted, the inducement would cease, because, as now, a penniless cooly might take up the land, might agree to the landlord's conditions, and would assuredly in a few years be the insolvent cottier, whose position it is so necessary to relieve. No readier or more effective means of getting rid of insolvent cottiers has suggested itself to me than to hold out inducements to the thrifty men to buy out and supplant the thriftless.

The proverbial man who made two straws to grow where one grew before must be brought to the front.

386. And so in the case of Clauses IV and IX, it is of the utmost importance that the thrifty pushing men should be brought to the front. The proverbial individual who sees his way to make two straws grow where one grew before is the man who deserves to be secured in his industry, and nothing, it seems to me, is so well calculated to encourage such a man than to permit him to outbuy the less enterprising individual.

This is secured by Clause IX.

387. This will, I think, be fully secured by Clause IX. A landlord has *in every case*, it will be observed, to reserve for his tenant one-third at least of the net produce of the holding (Clause III), but (Clause IX) he may accept from the in-coming tenant a sum of money in payment of this right to the one-third share of produce reserved. The in-coming tenant *in every case* is secured in the enjoyment of the one-third share, and is thus saved whatever happens from impoverishment and insolvency, but he may have made a bad bargain in giving the landlord too much for this right, and may have lost his capital, and, on the other hand, he may have been right in thinking he saw his way to making more out of the holding, and in that case his expenditure will have been justified.

A "landlord," who accepts a cooly as tenant, must set aside for him his ancient customary share of produce.

The agreement of 1803 should be fulfilled.

388. Again, if the landlord accepts as his tenant an insolvent cooly who can pay nothing for the privilege of having reserved for him this one-third share of the net produce, then it seems to me it is perfectly just to insist that this one-third share, the cultivator's ancient customary share of the produce, shall be reserved for him to enable him to maintain himself. The proprietors agreed to this reservation in 1803 (Appendix III, No. 17), and they should now fulfil the agreement then entered into with the Government.

Thrift and industry will be encouraged by Clause IX.

389. It is obvious that a landlord having to make his choice between a tenant who can pay him something and a tenant who can pay him nothing for this reserved one-third share, will naturally prefer the former, and, in this wise, it seems to me thrift and industry will be encouraged among the poorer classes.

An improving landlord will be able to get a competition rent out of the land he improves.

390. Moreover, it will be seen that a landlord who improves land will, by these provisions, be enabled to secure a full competition rent; he will receive annually as rent the two-thirds of the net produce, and in addition he may receive a sum of money, the interest of which may fully represent the other one-third of the net produce.

In every case the competition rent is taken out of capital.

391. In every case, then, it seems to me that the end in view which was to take a competition rent out of capital, not out of the wages of cooly cultivators, will be attained if the proposals in Clauses IV, VIII, and IX are accepted.

Clause V.

392. Passing on to Clause V, it has been remarked in Chapter IV, para. 160, that the actual cultivator has frequently at present to pay the land assessment due to Government on his holding as well as the landlord's rent. This is a matter which is regulated in Malabar by the mutual agreement of the parties concerned, although in the land assessment schemes in force, it is intended that the Government shall be paid out of the landlord's share of the produce alone. It would be no boon to the actual cultivator to reserve for him one-third of the net produce of his holding, and, at the same time, to permit him to be saddled with the payment of the Government dues. The Government share of the produce is commuted into money at rates which are at present, (*see* para. 316 of Appendix II), *and which ought always to be*, favorable to the man who has to pay the assessment. It will suffice, then, I think to remove this burden from the cultivator if a provision is inserted entitling him, when he does pay the assessment, to claim the Government share of produce at the favorable Government commutation rate, because the interest of landlords will suggest to them that it will be more profitable to them to take the payment upon themselves.

Clause VI.

393. Clause VI is most necessary to prevent what sometimes happens now (*see* Chapter IV, para. 206), namely, the mortgaging of his interest in the land by the actual cultivator to raise money to pay to his landlord the heavy fines demanded at renewals. If such a power were not restricted, it is manifest that the benefits to be expected from Clauses IV and IX would be endangered. The tenant would not merely pledge his credit, but his interest in the land, and would be able thus to outbid the thrifty man with realised capital. There could be no objection to a man pledging his personal credit to raise a loan, in order to make to his landlord the payments contemplated in Clause IX, because, if he overdid it, he alone would suffer, and the man who bought up his rights in the land would come into possession of it on a totally different footing. It would not be so, however, if the pledge were of his interest in the property itself, because the transferee of his interest would come into possession of the holding with all the incubus of the mortgage debt lying heavy upon it. This clause will interfere, to some extent, with the ancient customary law, which not only recognised mortgages of all the interests in lands, but even mortgages of such mortgages.

Clause VII.

394. As respects Clause VII, it will be necessary to restrict the actual cultivator's power of subletting (except for temporary purposes). It is manifest that an actual cultivator who sublets is himself no longer an actual cultivator, and no longer as such entitled to the special provision reserving to him his ancient customary share ($\frac{1}{3}$) of the produce. Complications would, however, certainly ensue if it were not made perfectly clear that an actual cultivator has no authority to sublet. Here, again, there is an interference with the ancient customary law of Malabar, which empowers tenants of all descriptions to subdivide and sublet their holdings at will (Chapter IV, paras. 111 to 117 and 179 to 185), but it is an interference that seems to me most necessary, and that ought to be established by conferring on the landlords a summary power of ouster if the rule is infringed by the tenants. The tenant might, however, not be in a position to undertake the cultivation (*e.g.*, in the case of an orphan minor), and it might be hard to compel him to sell his interest in the holding. Under such circumstances, he should have a right to sublet for a temporary purpose only, in order to prevent the land lying waste meanwhile.

Clauses VIII and IX.

395. Clauses VIII and IX have already been dealt with in connection with Clause IV.

Clause X.

396. Clause X is designed to facilitate the landlord's resumption for any purpose of holdings which may come into the market. It is obvious that every reasonable facility should be afforded him to accomplish this.

Clause XI.

397. The object of Clause XI is also sufficiently obvious. A man who has been convicted of a grave offence, or to whom there is other grave objection, should clearly not be permitted to accept the transfer of a holding in opposition to the landlord's wishes. So, too, the custom of the *Kavaḷappāra Nāyars* to refuse holdings to *Māppiḷḷas* (Chapter VII, para. 302), should also be viewed as a reasonable ground of *veto*.

Clause XII.

398. Clause XII is the complement of the latter part of Clause III and of Clause VII, and needs no remark.

Clause XIII.

399. Clause XIII provides for the sole exception, which, I think, should be permitted to the general rule of permanency of tenure. A landlord would, for instance, be permitted to utilise it if he had some mining scheme or some large scheme of irrigation on hand, and he should also, I think, be permitted to utilise it if he had a design to throw a number of small grain land holdings together, in order to make a large farm, because grain lands can usually be more economically and more profitably worked in large farms by men of capital than in small detached holdings by cooly cultivators. The principles on which procedure should be taken in such cases should, I think, be identical with those embodied in the Land Acquisition Act for expropriating property for public purposes.

Clause XIV.

400. Clause XIV is designed to compel the actual cultivators to a punctual payment of their rents, and to secure to the landlord the easy recovery of any arrears that may have accrued. An actual cultivator's interest in his holding should be sold in accordance with the main principle of these proposals, as freely as his bullocks and bandies.

Clause XV.

401. Clause XV is like the latter part of Clause VII, designed to provide for the leasing of land for temporary purposes. It is only just that the landlord should have this right, as it would seriously inconvenience him sometimes not to be able to give a temporary lease for land, say, on which he designed to build a house. He would have to allow it to lie waste if he were not ready at once to commence building.

Clause XVI.

402. Finally, Clause XVI is designed to meet the case of a tenant who makes a change in his holding with a view to cause wilful damage to his landlord. I am of opinion that such cases will be exceedingly rare for land is not easily obtained, and a tenant once in will have every inducement so to conduct himself as to remain there, but it is possible particularly at the outset that such cases may occur. There is nothing to prevent a tenant from throwing up a holding after having made it unfit for cultivation, and unfit, therefore, for the payment of rent. For example, he may wilfully allow paddy fields to become silted up; he may destroy a channel for irrigation; he may cut down all the fruit-trees of a garden with a view to damage his landlord's interest. If he did this and then threw up his holding, he would be guilty of mischief under the Indian Penal Code, so there is no necessity to provide a special penalty for any such act, but the landlord is, I think, entitled to step in before the climax in any such very exceptional case is reached, and this clause will enable him to do so.

The main Principle embodied in these Proposals.

The agricultural occupancy right to be bought and sold like a chattel.

403. Having passed in review the detailed proposals for effecting the ends in view, it will now be convenient to say a few words about the main principle embodied in these proposals, viz., to separate the agricultural occupancy right to land from the other rights cen-

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tred in a fee simple owner and to arrange that it shall be bought and sold and dealt with as freely as a chattel.

The Land Question must be worked out on the lines pointed out by the genius of the people.

404. Every country, it seems to me, has a Land Question History of its own, and the question must be worked out on the lines and in the direction pointed out by the genius of the people. I have, therefore, throughout these papers steadily omitted all references, however tempting, to real or fancied parallels in the land question histories of other countries, as I believed that such references in a report dealing with the special land question of one particular country would only lead to confusion of ideas and to the mixing up of things really incongruous.

The change wrought in Malabar by the British principle of personal freedom.

405. It will be seen from what I have set forth throughout this report that I believe a great departure has been made since the introduction of British rule from the principles which formerly governed the relations of the parties interested in the soil, and that departure has been mainly due to a cause to which frequent reference has been made particularly in Appendix I, namely, to the substitution of the British principle of personal freedom for that of custom. The *Janmis*, who with the *Kāṇakkār* in a body, had inherited from the Emperors or *Perumāls* (Appendix I, paras. 114, 192—198, and 224—231) the share of produce to which the Government of the country was entitled were not European proprietors in any sense of the word. They were entitled to their customary shares (two-thirds) of the net produce and no more.

Was absolute freedom of contract adapted to a country hitherto under the law of Custom?

406. I believe that this exchange of the British law of personal freedom for the ancient *Malayāḷi* law of custom has already effected much, and is likely in the future to effect still more good in this country, and it is unnecessary that I should dwell upon this aspect of it. I mention the matter here merely to point out that although absolute freedom of contract may with safety be adopted as the ruling principle of legislation in England, it does not follow that the same principle should invariably guide the legislation of a country like this. After the enjoyment for centuries of freedom, Englishmen may be trusted to make a proper use of freedom of contract, but Hindus hitherto ruled by custom and ancient usage frequently obtain such freedom of contract merely to abuse it.

What freedom of contract meant in Malabar.

407. In this particular case of the tenure of land custom had meted out the shares into which the produce should be divided, and had also assigned to the lower classes a position of subordination to those above them. The grant of freedom, under such circumstances [as I have already pointed out, Appendix II, para. 246 (*a*)] meant, as soon as custom had given way, freedom for the strong to oppress the weak,—freedom for the newly created proprietor to take an ever-increasing portion of the share of net produce left over after paying the Government dues. And the effect is becoming daily more and more obvious in the impoverishment and lawlessness of the lower classes of the people.

Freedom to contract should be controlled.

408. In my opinion, then, this is one of the cases in which the grant of freedom to contract must be narrowly watched and closely controlled, and I see no better way of doing so in this particular case than to insist that the agricultural occupancy right in the land of small holdings shall be detached from the body of other rights centred in a fee simple owner, and shall, under proper control in the manner detailed above, be bought and sold and treated like a bale of goods.

Especially as the ancient customs permitted the exercise of freedom only in respect to the customary shares.

409. And there is all the more reason for this when it is remembered that the customary law of the country permitted this to be done in ancient times in respect of the shares which severally fell to the three classes of water-contact-birthright holders, protectors, and cultivators.

No such thing as partnership between "landlord" and "tenant" in Malabar.

410. Moreover, on this point I may observe that there is in Malabar no such practice as that obtaining in European countries of a sort of partnership between landlord and tenant,—the one aiding the other in making the most of the land.

They are now guided solely by commercial principles.

411. The tenant almost invariably makes the improvements, and he has a right to do this, whether the *Janmi* or the *Kānakkāran* above him consents to their being made or not. The Courts have even upheld his right to do this, when he has in doing so encroached on waste land, not originally in his holding. (See *Verumpāṭṭam* in the Glossary to Appendix I). Sometimes the cultivating proprietor makes the improvements, but when this is the case, he is working to benefit himself *alone*. There would, therefore, in Malabar be no loss of control, no loss of the "sentiment of ownership," as it has been often called in England, which induces a proprietor to spend sometimes extravagant sums in improving the land with a view to benefiting both himself and his tenants. The relations which now subsist between proprietors and tenants in Malabar are accurately described in Chapter V, paras. 218—223, and are, as a rule, regulated by strict commercial principles. No harm or injustice can, therefore, be caused by still further extending these principles, so as to admit of the agricultural occupancy right in small holdings being bought and sold like an ordinary chattel.

Landlords will be left free to adopt the rule of partnership if they think fit.

412. At the same time, it will be observed that the proprietors will be still left free by my proposals to enter into any terms they like with large holders who possess capital, so that there will be ample scope for the creation of cultivating partnerships after the English model if that suggests itself as a practicable plan to future generations. Partnerships of this kind suggest the sharing of losses as well as the sharing of gains, but it is unnecessary to say more about, or to provide for, a state of things which is not now, and may never be, in existence in Malabar.

The adoption of the principle gets rid of enormous difficulties entailed by any other scheme.

413. In conclusion, I may observe that the adoption of this principle gets rid of enormous difficulties which lie in the way of the successful working of any other scheme I have ever heard suggested. It sounds simple enough to say—why not organise a scheme of fixing the rents payable by small holders if the rents now paid by them are excessive, and the payment of these excessive rents leads to crime, impoverishment, and famine.

Can the State organise an effective agency for determining what a fair rent is.

414. A scheme of this kind, however, entails on the State the most difficult duty of saying what a fair rent is. It is obvious, in the first place, that what is a fair rent for a man of resource and energy may be an extreme rack-rent to a man not possessed of those qualities; and if rents are all reduced to one dead level, no inducement beyond the prospect of bettering himself is held out to the man of energy. Nothing is more certain than that an easy rent induces habits of idleness and stagnation among an ignorant and uneducated class of cultivators.

It is impracticable, therefore, to my thinking, for the State to attempt to adjust rents on a satisfactory basis. If rents are low, stagnation is the result; if high, a large proportion of the cultivators are oppressed. Rents must adjust themselves to the circumstances and characters of the persons who undertake to pay them, and no system of adjusting rents can be called successful which fails to take note of the innumerable conditions thus presented.

If the task is difficult generally, it will be more difficult still in India.

415. Then, again, what State agency, especially in India, can be trusted to work such a plan of fixing rents? If the Civil Courts cannot, as I have attempted to show, be trusted to value correctly the improvements on land, still less will they be able to decide what a fair rent is when the innumerable conditions just referred to have to be taken into consideration in each individual case. The litigation and strife that *necessarily* must follow upon the adoption of such a system is a very strong argument against it. This litigation and strife could, to some extent, be got rid of no doubt by taking the matter out of the jurisdiction of the ordinary Civil Courts, and by making it over to a Special Court empowered to deal with classes of cases instead of with individual ones; but if that plan is adopted, I would ask where is the matter to end?

The State will be put to great inconvenience to do what can be far better done by the people themselves.

416. For rents, even estimated in shares of produce, not in money, must go up or down as the resources of the country become developed or retarded. A fair rent for a block of land lying in an out-of-the-way unhealthy jungle may, in the course of a very few years, be found to have become an extremely low rent. And the reverse

may happen. If such a special Court is organised to deal with all such facts, then it seems to me the business to be transacted in it becomes endless, and the State is put to great inconvenience to do for the people what undoubtedly the people can do far better for themselves by such a plan as I have sketched above.

The main principle of these proposals will enable the people to adjust rents for themselves.

417. I hold, then, that the main principle of these proposals which is to accept facts as we find them, and to enable the people to do for themselves what cannot be done so well for them by the State is the only plan not liable to the gravest objections. It is, moreover, as I have attempted to show in consonance with the ancient customary law of the people of Malabar.

Forecast of the effect of introducing the proposed Statutory Tenure.

To prevent undue hardship to individuals, it is necessary to make a forecast of the effect of these proposals.

418. If this principle and the proposals founded on it are adopted, it will become necessary to forecast, as correctly as possible, what will be the effects on the classes at present interested in the soil, and to make such proposals as seem necessary to prevent any undue hardships to individuals from the introduction of a scheme which will necessarily work great changes in their mutual relations.

The classes at present interested in the soil.

419. The classes at present interested in the soil besides the *Janmis* or proprietors are—

(1) permanent tenants;
(2) tenants with money advances secured on the land, but not liable to pay rent, and not liable to pay renewal fees at fixed intervals; (otti)
(3) tenants with money advances secured on the land, but not liable to pay rent, and liable to pay renewal fees at fixed intervals; (quasi-otti)
(4) tenants with money advances secured on the land, and liable to pay rent but not liable to pay renewal fees at fixed intervals; (quasi-Kanam)
(5) tenants with money advances secured on the land, and liable to pay rent, and liable to pay renewal fees at fixed intervals; (Kanam)
(6) simple mortgagees both liable and not liable to pay rent for definite or indefinite periods; (Panayam)
(7) tenants on leases for twelve years or more;
(8) Do. do. for more than one and less than twelve years; } Verumpatt
(9) Do. do. for one year or at will.

These classes are interested in two ways in the soil.

420. These classes, again, it will be seen from the table at para. 127, are all interested in the land in two ways., viz.—

(*a*) as cultivators. (*a*) either as actual cultivators;
(*b*) as intermediaries. (*b*) or as intermediaries between the proprietor and the cultivator.

Even tenants for one year or at will, it will be seen, sometimes manage to sublet their lands and to become intermediaries.

The cultivating proprietor.

421. And first as to the cultivating proprietor or *Janmi*, these proposals will not affect him, unless he elects to let his holding, in which case he will get the reward of his industry in the shape of a competition rent, partly payable annually, and partly as interest on the sum he gets from the in-coming tenant.

The permanent tenant, if a cultivator.

422. The permanent tenant, who is an actual cultivator, will, like the *Janmi*, not be affected by these proposals, unless he elects to sublet his lands.

The permanent tenant, if an intermediary.

423. But if he is an intermediary, then, at the next renewal of his contract with the actual cultivator, he must, I think, be compelled to elect whether he will take the land into his own hands and cultivate it, or make it over permanently in accordance with these proposals to some one else to cultivate. If he elects to take the latter course, he will get a competition rent.

424. The tenant who has money advanced on the land, and who is not liable to pay rent, nor to pay renewal fees at fixed intervals, that is to say, the ordinary *otti* holder, will be placed in this position as soon as the law is made applicable to his holding:

The *otti* tenant,

(*a*) if he is himself the cultivator, the proposals will not effect him at all;

if a cultivator,

(*b*) if, on the other hand, he is an intermediary, it is clear that he cannot give his sub-tenant the permanent agricultural occupancy right without infringing the *Janmi's* right to redeem and resume possession of the land. The introduction of the law in this case should, therefore, be deferred until the *otti* holder's relations with his *Janmi* come up for re-adjustment. When that re-adjustment takes place, all parties ought to be required to bring their relations into conformity with the proposed new law, and there will be no difficulty about this as the sub-leases under the *otti* holder must of necessity fall in at such times.

if an intermediary.

425. The quasi-*otti* holder of the next class (Class 3), who has to pay renewal fees at fixed intervals, of whom by the way there are very few, (para. 126), will be in the same position as the numerous class (Class 5) of ordinary *Kāṇam* holders; the only difference between them being this, that whereas the quasi-*otti* holder has no rent to pay annually the interest of his money advance being sufficient to cancel the annual rent value of the holding, the *Kāṇam* holder, on the other hand, has some annual rent to pay. It will be as well, therefore, to take the two classes together, and to consider the positions in which they will be placed as soon as the proposed law is made applicable to their holdings.

The quasi-*otti* and *Kāṇam* holders.

426. The Courts now view a renewal of such deeds as the making of a new contract and not as the continuation of an old one. (Clause (*a*) note 4 to *Kāṇam* in Glossary to Appendix I). At renewal times, therefore, the subject of the relations between the *Janmi* and the quasi-*otti* or *Kāṇam* holder comes up for full adjustment, and all sub-tenures that may exist under such holders are necessarily also renewed at the same time. This, then, will be the fittest time for the law to come into operation, and the new contracts entered into will then have to be brought into conformity with the law, and all parties *Janmis*, quasi-*otti* holders, *Kāṇakkār* and sub-tenants (if any) under these intermediaries will have to proceed to adjust the new relations between them. I anticipate that nearly all the *Kāṇakkār* who are still pretty well off will continue on as tenants under the new statutory lease, and that most of the present sub-tenants holding under them will continue on as day-laborers. If this anticipation is verified by results, it will undoubtedly be an unmixed blessing to the country.

The law should come into operation at renewal time.

It will be an unmixed blessing to the country if the present sub-tenants are relegated to daily labor for hire.

427. The tenants of Class 4 are very few in numbers. A separate class of this kind was introduced in the returns to ascertain whether any persons held on such terms, and I am inclined to think that it has led to some confusion, and that persons holding on such terms belong rather to Class 6, who are simple mortgagees holding for definite or indefinite terms and liable to be called on by the *Janmis* to give up the land on payment of their mortgage claims at any moment or as soon as the term definite has expired in accordance with the conditions of their deeds. Whether this was so or not cannot now be readily ascertained, nor is the point of sufficient importance to necessitate further enquiry, for it is clear they are not permanent tenants. If they are really *Kāṇam* tenants (like Class 5), the law of the Courts gives them only twelve years' possession and at the end of that period their relations with their *Janmis*, like those of ordinary *Kāṇam* tenants, come up for full adjustment. Their relations with sub-tenants have also at such times to be re-adjusted. The law will thus be applicable to them in precisely the same manner as it will be to ordinary *Kāṇam* holders as already described above. If, on the other hand, they are really only simple mortgagees, they will be in the position of the holders under Class 6 which has now to be described.

The tenants of Class 4.

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The Panayam holders.

428. The holders under Class 6 are the ordinary *Panayam* holders, who hold the lands pledged to them only so long as the conditions of their deeds entitle them to do so. The term of tenure may be definite or indefinite, and at the end of that term, whatever it is, the whole of their relations both with the *Janmi* above and with the sub-tenants below them come up for full adjustment. This then seems to be the time at which all parties should be called upon under the proposed new law to bring the state of their relations into conformity with it. The *Janmi* will have to elect at such times whether he will pay off the mortgages, or lease the land burdened with them, and all parties, it may be safely assumed, will make the best of the new positions which the law will assign to them.

Verumpāṭṭakār or ordinary lessees.

429. The holders under Classes 7, 8, and 9, are now in the view of the Courts ordinary lessees for any term from one year upwards. They are much the most numerous of the classes of actual cultivators, 9,147 lands out of the 14,034 lands inspected being cultivated by tenants of this description. They are the *Verumpāṭṭam* holders of former times, that is to say, they had to pay to those above them the whole of the *pād* or authority's share (*i.e.*, the *pāṭṭam*). In the case of all classes of these tenants, their relations with the *Janmis* or with the intermediaries above them and with the sub-tenants beneath them come up for re-adjustment periodically, or at the end of a term definite. At such times, then, the proposed new law should come into force.

The general result is, all existing contracts should continue in force for their natural terms.

430. The general result of this detailed consideration of the present positions of the parties may be thus stated. All existing contracts should continue in force for their natural terms. In the simplest case, this term will come to an end within one year from the date on which the proposed new law comes into force, and this simplest case will be that of the actual cultivators holding *direct* from *Janmis* or from permanent tenants under ordinary leases from year to year or at will (Class 9). The actual cultivators holding on such year-to-year leases from intermediaries may, of course, continue on, if they so choose, to hold on year-to-year leases until the time comes when the intermediary's contract with the *Janmi* has to be re-adjusted, and at such a time the proposed new law should come into operation.

Where the Janmi does not press for a settlement with certain of the classes, a time should be fixed after which no fresh sub-leases should be granted without authority.

431. But the *otti holders* (Classes 2 and 3), the *Kāṇakkār* (Classes 4 and 5), and the simple mortgagees (Class 6) may, if the *Janmi* so wishes, continue to hold on for indefinitely long periods. These classes, indeed, at present are sometimes not called upon to re-adjust their relations with their *Janmis* for periods of twenty-five or thirty years or even more. It seems necessary, therefore, in the interests of the actual cultivators holding from such intermediaries, to prescribe a limited period, after which no fresh sub-leases should be granted without the formal sanction of some authority (say, the Collector), who would take steps before giving that formal sanction to ensure that the actual cultivators were really left in enjoyment under such sub-leases of their ancient customary share ($\frac{1}{3}$) one-third of the net produce. Without that formal sanction the leases should be held to be invalid.

Twelve years from the date the Act came into force would be a proper limit.

432. The question, then, is what would be a reasonable limit of time to prescribe for this purpose? *Kāṇam* leases run for twelve years only and no longer, and it has, though with some hesitation, been also held that *otti* leases run for twelve years. I think, then, that after the lapse of twelve years from the date on which the Act is brought into force, all leases granted by intermediaries of all kinds should, for the purpose of protecting the actual cultivator, require the formal sanction of the Collector before acquiring validity.

How are existing relations between the parties in regard to improvements to be adjusted.

433. Another and most important point has also to be considered, and that is, how are the existing relations between the parties in respect to improvements to be equitably adjusted at such times?

Where the improvements belong to the Janmi alone.

(*a*) The improvements on the soil sometimes belong to the *Janmi* alone. This case presents no difficulties, for the *Janmi* is clearly entitled to take the competition rent I propose to

give him from the lands on which all the improvements belong to him alone.

(*b*) But, again, the improvements may belong sometimes partly to the *Janmi* and partly to the *Janmi's* tenant, and partly to the *Janmi's* tenant's sub-tenant, and sometimes solely either to the tenant or to the sub-tenant. These cases, at first sight, seem to present some difficulty, because, of course, the *Janmi* cannot be permitted to take a competition rent from the man he puts in, unless he, at the same time, undertakes to pay full compensation to the parties to whom the improvements belong either partially or wholly. It is likely, however, that tenants and sub-tenants will, in most cases, be the persons whom the *Janmi* arranges to put in on the statutory tenure, and such cases will be best settled by allowing the parties to deal with each other on ordinary commercial principles. The tenant's or sub-tenant's improvements will, in such a bargain, fetch just what they may be worth. But if the parties cannot agree, then it becomes necessary to arrange for some tribunal which will be empowered to deal with such cases.

Where the improvements belong sometimes partly to *Janmi*, partly to tenant, and sometimes partly also to sub-tenant, and sometimes solely to tenant or sub-tenant.

434. Under present circumstances, when landlord and tenant cannot agree the former files an eviction suit. And this procedure, I think, had better be allowed to remain in force. The Civil Courts are at present placed well within the reach of all suitors, and the Court establishments are accustomed to the work of valuing improvements, and only require to be stringently supervised in order to perform the duty as well as such a duty can be done except by a class of much better-paid officials, whom it seems unnecessary to organise for such a purpose. If the work of the Courts in this particular direction increases very much, it would perhaps be necessary to strengthen both the Courts and the Court establishments; but I do not anticipate any overwhelming increase in the number of suits as the introduction of the statutory tenures will be gradual and spread over twelve years at least, and, on the other hand, the work in this direction will gradually lessen as the permanent statutory cultivation tenures increase in number. The work will, I anticipate, gradually come to an end about twelve to fifteen or perhaps twenty years from the date of introduction of the Act.

If the parties cannot agree the adjustment of their disputes must be left to the Civil Courts as at present.

The proposed law will not come into full operation till perhaps twenty years from its introduction.

435. A further argument in favor of the course above recommended is that the Courts will be able simultaneously to adjust (as they usually do at present) all other questions outstanding between the parties in respect to such things as arrears of rent, interest, &c., &c.

The Courts can also as at present adjust all disputes about arrears and interests, &c.

436. There is, however, one point on which the procedure of the Courts should be amended in order to put tenants in all parts of the district on an equal footing, and that is with reference to the current rates paid for improvements. It is clear from Appendix V that the tenants in North Malabar are at present very insufficiently paid for improvements when evicted. The proposed law should, therefore, prescribe that tenants are to be paid at current market rates for their agricultural improvements if they are evicted by suit in the manner above proposed. It seems absurd to pay a tenant in Kurumbranād Taluk only 8 annas for a full grown coconut tree, while for the same tree if grown in the Ponnāni Taluk he would be entitled to 14 rupees.

The Courts should adjudge current market rates for improvements all over the district.

437. *Current market rates* are, I contend, the only equitable rates, unless it can be shown by indisputable evidence, for instance, that the *Janmi* gave his land to the tenant on exceptionally favorable terms for the growth of garden products. It would be open to the *Janmis* to plead any such exceptional circumstances in mitigation of the rigid application of this rule, and the Courts could give effect to the facts as found in each such individual case.

Current market rates are the only equitable rates.

Proposals regarding the Creation of a Class of small Gardeners.

Anticipated conversion of cooly-cultivators into day-laborers.

438. If these measures have the effect I anticipate and hope for, a large proportion of the numerous class whom I have termed cooly-cultivators will be converted into day-laborers and relegated to their proper function in society of working for hire, and it is to benefit this already numerous class that the following proposals are directed.

A considerable section of them may become permanent petty garden-holders.

439. Coolies must have houses to live in like other folks, and it will possibly come about that a considerable section of this class will be converted into permanent petty garden-holders under the operation of the general law proposed above. On the other hand, many of them will become cottagers on the permanent statutory tenant-holdings of other people.

But the gardens are likely to be reduced to a minimum in extent.

440. As regards the first of these classes, it will, I consider, be a most beneficial result of the proposed legislation if a large proportion of these coolies are permanently settled in small garden-holdings. Their rights in such holdings will be as secure almost as fee simple titles, and the idea of property with its influences towards thrift and industry ought to become largely developed. But the amount of land in each such holding is likely to be reduced to a minimum, and, therefore, I would further propose that facilities should be given to all classes of coolies and small cultivators for acquiring suitable blocks of land for the creation of small gardens, and I will now proceed to explain how, in my opinion, this can be best accomplished.

Facilities should be given to them for acquiring garden sites.

The present law regarding the grant of Government *Cowles*.

441. I have already described the present position of the law as laid down by the Courts in regard to the grant of Government *Cowles* for the reclamation of waste lands (Chapter IV, para. 97, and Chapter VI, paras. 280—286). Substantially it comes to this. A man may be put into possession under a Government *Cowle* of any piece of unoccupied land, but the *Janmi* may any time before the lapse of twelve years from the date of entry turn him out unconditionally. It is sufficiently obvious that no one will take up the reclamation of waste lands on such uncertain terms, even though compensation for improvements has to be given before ejectment. A man takes up the cultivation of such lands to benefit himself, and not to benefit other people, and hence like the improving tenant of land already occupied it is a very insufficient reply to give to him when he is evicted that he can claim compensation.

The Government should have power to keep a man in possession under a *Cowle*.

442. It is no use conferring on Government a power to put a man into possession for the reclamation of waste if the Government cannot keep him there once he is in.

How Government acquired the power of putting a *Cowle* holder into possession.

443. I have not been able to trace how this power of putting a man into possession under a *Cowle* first arose. It could not have been a privilege of the former Rājas, for their power over the lands of their feudatories was, as often already observed, very limited. That it arose under the Muhammadan (Mysorean) Government there is no evidence. That it has existed for many years under British rule is quite certain. This is what Mr. Conolly reported regarding it in 1853. (File of Correspondence, 1852—1856, pages 17 and 20.)

"A man is not allowed to keep his land waste unless he agree to pay the Government the tax they would derive from its cultivation. Should he decline to do this, the land is delivered over to any person * who will undertake to till it, a specification being made that out of the profits deducible from its cultivation a certain portion (about 15 per cent.) shall be given to the proprietor as the landlord's share."

It probably came in with the *Ryotwāri* system.

444. I am inclined to think it came in with the *Ryotwāri* system of revenue management, and that it was viewed with complaisance by the *Janmis* as being in accord with what I have attempted to show was the ancient organisation of society—classes, that is to say, castes being told off to perform certain functions in the body politic. Even to the

* *I.e.*, if A, a stranger, applies to the authorities for leave to reclaim waste (as is constantly done), B, the landlord of that waste, cannot bar A's purpose except by taking the responsibility himself.

present day the *Iḻuvar* in Pālghat Taluk consider they have a duty, as I have shown, to perform to the State in planting up the land.

If the *Janmi* had been the proprietor in the European sense, he would likely have resented this infringement of his rights.

445. It is sufficiently obvious that had the *Janmi* been the *dominus* of the soil instead of the limited owner, as I have described him, the introduction of such an innovation as the taking out of his hands of the disposal of his waste lands would have created great discontent. But, as already repeatedly said, the *Janmi* was not a *dominus*, and so he quietly acquiesced in what would have been considered in Europe a great infringement of the rights of property in the soil.

Necessary to over-rule the tendency of the Court decisions and to declare that the holder of a Government *Cowle* for a small holding shall not be liable to ejectment.

446. I see not the slightest objection to the *Janmi* being in the future considered the proprietor of all the waste land within his "birthright" limits, provided always that the concurrent rights of the other classes of citizens are respected; and so I conclude that it is necessary distinctly to over-rule by law the tendency of the Court decisions which is to confer on the *Janmi* the position of a European *dominus*, and that it is necessary specifically to declare that the tenant of a small holding under a Government *Cowle* shall not be liable to eviction except under the ordinary law governing the tenures of other actual cultivators. Where the holding is a large one, it is not so necessary to interfere in order to secure the cultivator under a Government *Cowle* and such a holder must be left, as at present, to make his own terms with his *Janmi*. A Government *Cowle* to such a large holder would simply mean that the Government demand on his land would not come into force for the term definite mentioned in it.

Unnecessary to interfere for benefit of large holders on Government Cowle.

Government could then give permanent occupancy rights to small gardeners of lands not already permanently assessed.

447. If this proposal is approved, then it will become possible for Government to grant *Cowles* conferring on small garden-holders permanent occupancy rights to all wastes and lands not permanently assessed, and it becomes necessary to point out what should be some of the conditions to be embodied in such *Cowles*.

Proposal to give such garden lands at 6 *annas* per acre reserved for the Government and 6 *annas* per acre reserved for the landlord.

448. Any one is at liberty at present to take up land for cultivation in the low country taluks, who undertakes to pay to Government the extremely moderate cess of (6) six annas per acre per annum (Appendix II, para. 280). In all *Cowles* the right of the *Janmi* to his rent is reserved, and if that rent were likewise fixed at (6) six annas per acre (the same rate as the Government cess), it would be in accordance with the principles of the garden land assessments in which 50 per cent. of the *pāttam* goes to Government and 50 per cent. to the *Janmi* (Appendix II, para. 254). The total of the *Cowledār's* payments would thus amount to the very moderate sum of (12) twelve annas per acre per annum,—a rate which the poorest of them could easily pay for a house and garden site, a *Kuḍiyirippu* as it is called in Malabar. This rate should, I think, be made a permanent rate, so long as the Government assessment remained unchanged, and if an increase took place in the Government assessment rates, the *Janmi's* rent rates also should similarly be raised. It would be necessary to prescribe for this specifically in the proposed new law.

These holdings should have a distinctive name. *Sirkār Kuḍiyirippu* suggested.

449. To distinguish such holdings from ordinary *Cowle* holdings, it will be as well, I think, to give them a distinctive name. Such a holding given by a *Janmi* would be called a *Kuḍiyirippu*; when the holding is conferred by Government in the manner proposed it might, I think, be called a *Sirkār Kuḍiyirippu*, *i.e.*, a Government *Kuḍiyirippu* holding.

The maximum extent of these small gardens should be (2) two acres.

450. Then, as to the extent of these *Sirkār Kuḍiyirippu* holdings I think that the maximum limit of the holding to be fixed by law should be two acres. This area, if cultivated as a garden ought to be cultivated, would give full employment to at least one grown-up member of the holder's family, and would leave the others free to work for hire.

The holder should fix his permanent residence in the *Sirkār Kuḍiyirippu*.

451. But it should also be made a condition that the holder should fix his permanent residence in the *Sirkār Kuḍiyirippu*, and that breach of this condition should entail forfeiture of the holding.

452. The further conditions would be similar to some of those of the general law proposed, namely, the holder should have rights (1) to hold permanently; (2), to use the soil to the best advantage; (3) to sell, give, or transfer his interest in the holding; but no rights (4) to mortgage; or (5) to subdivide or sublet it. And the *Janmi* of the land should similarly have rights (6) to pre-emption at sales, public or private; (7) to *veto* on the transferee; (8) to *veto* on the sale of a portion of the holding; (9) to recovery of the land if required for non-agricultural purposes or for improving the cultivation of his property; and (10) to sale of the tenant's interest in the holding for the recovery of arrears of not less than one year's rent. The same arguments already used in respect to these points apply equally to holdings of this description.

The other conditions of the *Sirkār Kuḍiyirippu* holding.

Proposals for the formation of an Experimental Garden and of a Garden School.

453. I look upon it that the extensive taking up of land for garden allotments (*Sirkār Kuḍiyirippu*) by the laboring classes will be a grand means of teaching them lessons of which they sorely stand in need at present. I have already dwelt at some length (Chapter IV, paras. 133—143) on the difference in this respect between the taking up of land for grain crops and the taking up of land for gardens. The reclamation from waste and the bringing into full cultivation of a garden can only be successfully accomplished by people of thrift, foresight, and industry; and these are the especial qualities which deserve encouragement in members of this class. Gardens require *lavish* care and attention, and the small gardener, if properly instructed, can always undersell the man who takes to this sort of cultivation on an extensive scale.

Thrift, foresight, and industry will be encouraged among laboring classes by this scheme of *Sirkār Kuḍiyirippus*.

454. But he must be well instructed in his art, and there can be no doubt that this is a point which deserves special attention. At present three of the chief garden-products of Malabar are Coco, Areca, and Jack trees. Regarding the cultivation of these, I doubt if the cultivators have much to learn, for centuries of experience and in the old days extremely favorable land tenures enabled them to make the most of those products, and the knowledge thus acquired has descended to the present cultivators. On the other hand, very little of the waste land in Malabar now is suited to the cultivation of the two most valuable of these products, and it will consequently be necessary for the small gardeners who take up *Sirkār Kuḍiyirippu* holdings to look to the cultivation of other staples.

But they must be well instructed in the art of gardening.

Knowledge regarding Coco, Areca, and Jack planting is extensive.

But little land now left for the two more valuable of these products, so small gardeners must take to other products.

455. In regard to pepper, for which Malabar was famous in the old days, I have shown (Chapter IV, paras. 77 and 80) that the production, notwithstanding other favorable conditions, has fallen off in recent years. I attribute this entirely to the narrow-minded policy of the *Janmis* acting upon the novel views of their position adopted by the Courts. Now-a-days if an industrious tenant acquires wealth, he also, to a considerable extent, acquires independence, and this is a quality which stinks in the nostrils of a *Janmi* of the old school (Chapter IV, para. 99, and Chapter V, para. 228). We cannot afford, however, to discourage it, as it is undoubtedly the natural fruit of the policy of personal freedom inaugurated by the British Government. The people are well acquainted with the best means of raising pepper, and all that requires to be done in respect to it is to give the tenants security that if they take to this industry (and there is a large extent of land in North Malabar peculiarly well suited to it), they will be left free to reap the produce they raise. We must, in short, remove the fears which the poverty-and-fever-stricken *punam* cultivators in North Malabar expressed to me last year (Chapter IV, para. 77).

Pepper.

456. But as regards other products, the cultivators at present labor under most serious disadvantages. The district will grow almost anything which requires a tropical climate to bring to maturity, but all efforts in the direction of introducing exotic plants will be in vain, unless the *small* gardeners can be taught to make the best use of their resources.

As regards other products the small gardeners labor under most serious disadvantages.

457. Coffee has been introduced, and is an established industry in the Wynād, but I am bound to say that not one of the many *small* native gardens in that taluk is cultivated as a coffee garden ought to be. Pruning in particular is an art which is neither understood nor practised, and the same thing may be said of the use and the abuse of manuring. At present, one or two crops, very often one over-abundant crop, followed by a natural succession of bad ones, are taken off the trees which are allowed to grow at random. The native cultivators then come to the conclusion that it will not pay, except in the hands of *Sāhibs* with large capital and resources, and not always then, and, of course, the cultivation gets the discredit which is really due to the faulty methods adopted. In my last tour in Wynād, and more particularly in North Wynād, I was every where told by the small native cultivators that coffee does not pay, except for a very short time. The ground they said, and said truly, becomes exhausted. I tried but without much success to point out to them that it was all their own fault. There is no doubt, in my own mind, that the small cultivator, if he were taught to *understand* and to adopt the methods of culture which result from a scientific study of the art, would do more than hold his own with the European possessed of capital and knowledge. There is ample room for both European and native planters in Malabar, but the latter must somehow or other be put in the way of learning their art.

Coffee.

458. Liberian Coffee, Caçao, Vanilla, the Rubber trees, and other products too numerous to mention can all be successfully grown in the district, but the cultivation of these will never be put on a successful basis until some means are adopted to teach the small native cultivators how to grow them. The art of pruning and the use of manure are in particular two of the points on which instruction is most urgently required.

The small gardeners must be taught the art of growing special products.

459. A scientific gardener who knew the native language would find ready and apt pupils among the small planters of the district, but his teaching would require to be practical rather than theoretical, and in order to attain this end he would require a garden in which to display his art and to teach his pupils. I therefore most strongly recommend that a convenient block of land should be secured at the district head-quarters in Calicut, and that such a man as I have indicated should be placed in charge of it. He might be set to make many most useful experiments in the introduction of exotic plants, but his chief duty should, I think, lie in the direction of educating a number of native gardeners in all the latest and most approved principles of their art. These men would, of course, at first have to be paid in order to be induced to come at all, but in return for their pay the work of the garden would mainly be done by them and in the teaching of the correct modes of doing this work would lie the chief merit of the plan.

Proposal for the formation of an experimental garden and of a garden school at Calicut.

460. I am not qualified to sketch a course of instruction for such a class, but I fancy that a twelve months' course each ought ordinarily to suffice to put them in possession of most of the requisite knowledge, and then their places should be taken by a fresh class. In this way in the course of a very few years I anticipate the beneficial results would be most marked, and the institution would become most popular.

The garden class should go through a course of instruction, and their places should then be taken by a fresh class.

461. It stands to reason that the Malabar District, which is in many places, as may be seen from the maps accompanying this report, one huge garden of palms and other garden-products, should be the one in which an experimental garden of this kind should be located. In fact, an experimental farm and agricultural college, such as there is at Saidapett, is comparatively of very little use to horticultural districts like Malabar and Canara. I quite admit that the efforts of Government should be concentrated as much as possible in this way, but, at the same time, even if matters horticultural had more attention paid to them at Saidapett, the men we want to reach in any effort of this kind in horticultural districts are men of small belongings and of indifferent education, and these can only be reached by practical instruction under conditions as nearly as possible identical with those which surround them in their own homes. And this it is

Malabar is, as may be seen from the maps, a huge garden of palms and other garden-products, and the experimental garden should, therefore, be placed where the conditions are similar to those met by the people in their own homes.

obvious can never be attained by sending them off 400 miles to a place where all the conditions, under which the teaching is given, will be strange and unfamiliar to them. On the East Coast, for instance, a large open tank or well is considered a *sine quâ non* in every garden, and from this tank or well the garden-products are irrigated; whereas in Malabar, where the gardens chiefly lie on the slopes of hills or on high ground, such tanks or wells cannot ordinarily be formed, and the cultivators have to resort to different means for procuring water for their plants. In dealing with an uneducated class, such as I have described, it is, I think, essential that they should be taught to make the most of the resources which lie ready to their hands.

A suitable piece of ground could be found in Calicut.

462. If this suggestion, and it is one, in my opinion, of the very greatest importance, is approved, I could procure a piece of ground in Calicut for the purpose, and, in selecting such a piece, I would take care that it should, as far as possible, embrace ground of all the descriptions which small garden-holders have to deal with in their own homes.

The financial aspect of the question.

463. Finally, as regards the financial aspect of this question, I do not, in the least, anticipate that it could at first be made to pay, nor ought, I think, this consideration to be allowed to weigh much against the other obvious advantages of such a scheme. But that it will be found eventually to be remunerative, I have no doubt whatever. The man in charge ought always to keep in view that his primary duty is to instruct the men sent to him; his second thoughts should be directed towards maintaining a supply of plants and seeds for which there may be a demand. The produce of the garden will eventually, I anticipate, prove a source of considerable income, but as I have before remarked a garden cannot be made to pay all at once. The ordinary coconut planter in Malabar never expects (except under the most favorable circumstances) to get any return for his outlay under eight to ten years from the time of planting.

Proposals regarding Rent Receipts.

The provision of means for enabling tenants to get valid receipts for their rents.

464. These are the main proposals I have to make for providing security for the small cultivators, but there are other subsidiary matters which require attention, and of these the chief is to provide some means whereby agricultural tenants can obtain valid receipts for their rents.

The practice of not giving receipts at all must be stopped, and the tenant must have means provided for paying his rent.

Bengal legislation on this same point.

465. It is clear that if landlords are to have a summary power of sale of their tenants' interests in their holdings for arrears of one year's rent, the practice, as at present in vogue on some estates, of never giving receipts for rent at all (Chapter V, para. 247) must be put a stop to, and the tenant must be provided with means for paying his rent when the landlord shows an indisposition for any reasons to receive it. In Bengal the same difficulties have been experienced, and the measures already adopted, and those proposed * for adoption there, to secure the interests of landlord and tenant in this matter will, to some extent, be applicable in Malabar. The main points provided for are—

(*a*) The instalments † in which rent should be paid,—what should be deemed an arrear of rent,—and the payment of interest (12 per cent. per annum) thereon.

(*b*) The form of receipts to be given for rent, or for any money recoverable as rent. It is proposed that the receipts shall be kept in book form with counterparts containing items similar to those entered in the receipt itself. The items to be mentioned in the receipts are—

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* Chapter IX of the Bengal Landlord and Tenant Bill, 1880.

† 1. When no date is specified for payment of rent, the presumption is that the rent is payable in the months of *Kanni* (August, September) and *Makaram* (January, February)—South Malabar District Court Appeal Suit No. 370 of 1877.

2. It is usually the rule that 60 per cent. of the rent is payable in *Kanni* and the rest in *Makaram*—South Malabar District Court, Appeal Suit No. 393 of 1878.

(1) date of payment;
(2) amount paid or when rent is paid in kind, the quantity of produce delivered;
(3) the holding, in respect of which such rent is paid or produce delivered;
(4) the instalment; and,
(5) the year on account of which such rent is paid or produce delivered.

(*c*) The penalty on the landlord for omitting or refusing to give a receipt is to give the tenant a right "to recover damages not exceeding double the amount paid by him as rent."

(*d*) The rent may be deposited in the revenue treasuries—
(1) if the rent has been tendered at the usual place, &c., and refused;
(2) if the tenant has been unable to obtain a joint receipt from co-parceners; or,
(3) if the tenant entertains a *boná fide* doubt as to who is entitled to receive the rent.

(*e*) The conditions on which the rent may be deposited are also detailed, the chief being that the tenant must make a written declaration in the terms of Clause (*d*) above to show under what circumstances he claims to make the deposit. The deposit must be of the whole amount of rent due with, if a tender has been made and refused, the interest due thereon at the time of making the tender.

(*f*) The receipt of the treasury officer, operates as a full acquittance.

(*g*) The deposit of which notification is to be posted in the Treasury office may be claimed within fifteen days, after which time special notice (cost of which may be deducted from the sum in deposit) is served on the party concerned.

The payment of rent in kind.

466. It would seem that in Bengal money alone is to be deposited in the revenue treasuries, but "rent" includes payments in kind. How the payments in kind are to be commuted into money has seemingly not been provided for in the Bengal Bill. It would be very inconvenient to have rents payable in kind deposited in the treasuries, so it will be necessary to provide that the tenant making the deposit in money shall state in his declaration at what rate the rent due by him in kind is commuted into money. He should, I think, be left perfectly free to fix the commutation rate, but no deposit should be accepted unless the rate is distinctly stated in well-known local measures and in the currency of the realm. Any difference of opinion that might arise between the parties as to what was a proper commutation rate would be best left to the ordinary law Courts.

Proposals regarding Land Agents.

The High Court's recent Rules regarding Legal Practitioners.

467. The next important point I have to suggest is in regard to Land Agents. The High Court has quite recently framed Rules under Sections 6, 7, and 27 of Act XVIII of 1879 regarding the admission, &c., of Legal Practitioners in the Madras Courts. These Rules are now in force, and they entitle the "Pleaders" "to appear, plead, and act" in the Civil Courts of the Presidency, and in the Criminal Courts, and they prescribe the fees payable through the Courts to them for their services in so appearing, pleading, and acting.

Some channel should be provided for enabling parties to come to terms without going to the Courts.

468. I have observed that the people of Malabar are under the impression that they must go to Court and file a suit if they have any matter of claim against any other person, and I have asked is it necessary that this should be so. (Chapter VI, para. 258). I have long held the opinion * that some other channel should be provided to enable the people to adjust their disputes without compelling them to air their grievances in the Courts, for it is notorious that the publicity attendant on suits in Court causes an amount of ill-feeling, jealousy, and strife which are hardly compensated by the justice meted out to the parties by the tribunals.

* *See* my letter published with the G.O. nominating me to these special duties.

The effect of the High Court Rules is to encourage litigation.

469. The effect of the existing Legal Practitioners' Rules is to encourage litigation in Court, for a pleader who carries the suit entrusted to him so far as to get a decree on the merits, is paid exactly double the fee which he would get if the case were decided on confession of judgment. Moreover, if he can manage to carry it so far as to get his party to confess judgment, he again gets double the fee to which he is entitled if the suit is withdrawn or compromised—(Rules 33 and 34).

The rules, as at present framed, give most encouragement to the pleader who is most successful in protracting the Court proceedings.

470. It is, of course, necessary that the scale of fees for pleaders should be so fixed that a man who has the anxiety and trouble incident to carrying a suit up to final judgment and decree shall get more than one who does less; but it seems clear to me that one who does less, or one who prevents a suit coming into Court at all deserves more encouragement than one who unnecessarily carries the suit upwards to judgment and decree. The Rules, as at present framed, however, hold out the most encouragement to the pleader who displays the most ingenuity in protracting the proceedings in Court.

The High Court should organise another body of practitioners to do the work preliminary to the filing of the suit in Court.

471. If it is necessary that this should be so (and I freely admit that the *pleader* should make the best fight he can once a case has been brought into Court) I think it follows that some steps should be taken to organise a body of legal practitioners whose duty it should be to do all the preliminary work preparatory to the filing of the suit in Court. At present no such body exists, nor can such a body of practitioners ever spring * up under the Rules now in force, though there is apparently nothing in Act XVIII of 1879 to prevent the High Court from organising such a body. The thing is sufficiently easy of accomplishment, and it could be attained with the minimum of trouble by directing that the practitioners chosen under the Rules in force should be required to elect whether they would practise as pleaders in the Courts, or would take up the work which should invariably precede the filing of a suit.

At present this preliminary work is done by pseudo-legal agents, who are quite irresponsible, who are the pests of the up-country Courts, and who batten on the strife they create.

472. At present this work has to be done by the pleaders themselves, and that it is very inefficiently done goes without saying for it is, as shown above, the pleader's interest not to compromise a suit. The pleader at present has no motive, even if he had the leisure, to conduct the patient preliminary enquiry into the facts which alone enables a practitioner to make the most of his client's interests. I have, for instance, heard a European Barrister get up in Court and characterise, without any exaggeration, the witnesses produced in Court by another European Barrister as persons whose evidence could be bought in the bazaar at so much per head. It is needless to say that the Barrister whose conduct was thus impeached could not help himself; he had been misled by the pseudo-legal practitioner employed by the party he represented. These pseudo-legal agents are the pests of mofussil Courts and batten on the strife which they create. It will never be otherwise until the High Court organises a body of *responsible* practitioners to do the work which in England falls to Attorneys and Solicitors. The essential point is that the body thus organised must not, under any circumstances, be allowed to plead in the Civil Courts.

It is to the organisation by the High Court of such a body that we must look for better material for the land agent body.

473. To the organisation of such a body of practitioners I look for better material for performing the work now done by the land agents (*Kāryastans*) whose conduct is so grievously impeached by the petitioners (Chapter V, paras. 231 and 242 to 251). There is an ample field for their employment in this direction for the Zamorin Mahārāja Bahādūr alone has over 800 men in his employ, whose work ought to be supervised and controlled by such practitioners. They would, of course, have to be paid more highly than the hungry land-sharks now employed, but they could be made much more useful in various ways, and as a direct incentive to the employment of such *responsible* men, I think, for instance, it might be provided that tenants under landlords employing such men to collect their rents should not have the privilege of depositing their rents in the revenue treasuries.

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* If a pleader enters into "trade *or other business*" he may at present be suspended from practice—Rule 30.

474. Many of them could also be most usefully employed as Registrars of deeds and as Notaries Public, and in various ways business could be thrown into their hands with much advantage to the public, provided always some security were taken for good conduct from them in some degree proportionate to the responsibilities imposed.

They could be usefully employed as Registrars, as Notaries Public, and in various other ways.

475. This giving of security for good behaviour is, I think, essential, for at present there is no sort of public opinion in most places in the mofussil, and in the absence of such a check on malpractices the only guarantee available for restraining the body of men I propose to be organised is to require them to furnish some *tangible* security for good behaviour, and to confer on the District Judges summary power to realise such security in the event of proved misconduct. This will be no hardship, for every family has more or less interest in land, and the family interests are precisely those which it is essential should be ranged on the side of morality and good conduct. The pledging of the family interests, which has been for a long time past used with most excellent effect in controlling the village officers of Malabar is likely also to prove serviceable in the control of the land agents, for a man's own near relations are not likely to forget how prejudicially they may be affected by the misconduct of one of themselves, and they may be trusted to employ with good effect the only kind of public opinion to which most men in the mofussil are now subject, namely, that of their own home circles.

They ought to give tangible security for good behaviour,—a most important point.

Proposals for a Survey and preparation of a Land Register.

476. It is unnecessary that I should say much about this proposal, for the necessity of introducing the Revenue Survey into Malabar has been before Government from time to time for the last thirty years, and the only question now pending in regard to it is how soon it ought to be introduced into the low country portion of the district. Above the ghāts it is already going on, and the Government have before them papers for its further extension in the Wynād Taluk.

The necessity for a survey and preparation of a land register has been before Government from time to time during the last thirty years, and is now going on above ghāts.

477. All that need be here said is that I believe its extension to the low country taluks would not only pay from a revenue point of view, but it would be an immense boon to the people, whose disputes regarding boundaries are endless. These disputes have to be settled at present by costly suits in the Civil Courts, whereas I fully believe that if the people had good survey maps and a land register to refer to, most of the disputes would never be brought to Court at all.

Its extension to the low country would not only pay, but it would be a great boon to the people.

478. At present the Revenue Department cannot efficiently check the land revenue, because to do that a land register is an absolute necessity, and at present no such register exists. The consequence is that (as already pointed out, Appendix II, para. 269, and Chapter VI, paras. 277-278 of this report), the Government land assessments are always falling into confusion, and it is an extremely difficult task very often to say what is the proper assessment on any bit of land that may be pointed out. Of course, under such circumstances, much land is not assessed at all or very insufficiently assessed, while other land is almost unbearably rated.

The consequences of having no land register to refer to in ordinary revenue administration.

479. I strongly recommend that simultaneously with the introduction of the proposals made above in regard to tenures, a strong Survey Party should be deputed to the district to prepare a land register, and there is no reason why the landed proprietors should not be charged for the preparation of this register proportionally to their recognised beneficiary interest in the net produce of the soil.

Simultaneously with the introduction of the proposed law, a strong Survey Party should be set to work below the Ghats.

Landlords should contribute a share of the cost.

480. In the case of wet lands Government should pay six-tenths and the proprietors four-tenths of the cost, and in the case of all other lands the cost should be equally divided between Government and the proprietors. (*See* Chapter IV, para. 162).

What shares the landlords should pay.

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Proposals in regard to Marumakkattāyam, the Law of Inheritance (through females), peculiar to the District.

This subject frequently cropped up in the discussions with the people.

481. This subject may appear to lie rather beyond the scope of the present enquiry, but this report would, I consider, be incomplete without some allusion to it. Although one petitioner * only mentions it, it is a matter which cropped up frequently in my discussions with the people, and I am, therefore, in a position to state what the best informed and most intelligent of the Malayālis themselves think about it.

The present law of inheritance.

482. The law of inheritance may be shortly described thus: A Malayāli *Taravād* corresponds pretty closely to what the Romans called a *gens*, with this important distinction, however, that whereas in Rome all members of the *gens* traced their descent in the male line from a common ancestor, in Malabar the members of a *Taravād* trace their descent in the female line from a common ancestress. All *Taravāds* of influence set apart property for the common use. So long as that common property exists, any number of families may hang together and form one *Taravād*. Every member, whether of age or not, belonging to a *Taravād* has an equal interest in the common stock, but no member can claim his share of it. The *Taravād*, however, *as a body*, can, of course, make any division it pleases of the common stock. When such a partition takes place, the *Taravād* becomes disintegrated into so many *Taravāds* as the members may have settled to form among themselves. This process of disintegration goes on continually except among the highest classes who pride themselves on maintaining a large common stock. But even among them the *Taravād* gets split up into subordinate divisions, known as *Tālvaris* or branches. A member with perhaps some assistance from the common stock, but more usually with the assistance obtained from his father (who, of course, under this system stands in no recognised legal relation to his children) sets out from his *Taravād* house and lives apart, taking with him one or more female relatives (usually a sister or sisters) and thus founds a separate branch (*Tālvari*) of the *Taravād*. The property acquired by such a *Tālvari* has been usually regarded as the property of the members who compose the *Tālvari*, and not as part of the common stock of the *Taravād*, even when there has been no formal deed declaring what is, and what is not, common property; but I understand that recently the High Court have held,† otherwise, and that now the tendency of the Courts is to regard all property as common property, until a formal division thereof has taken place.

At present a man's own children have no claim on their father's self-acquired property.

483. A man's own acquisitions during his life-time, therefore, descend at his death to his *Taravād*, and not to his own children. In the days when the *Nāyar* male population were all soldiers and the marital tie was not much regarded, this did not matter much, but things are changed now that a *Nāyar* usually marries one wife, lives apart with her in their own home, and rears her children as his own also. His natural affections come into play, and there is a very strong and most laudable desire for some legal mode of conveying to his own children and to their mother all his self-acquired property.

A man can at present transfer his self-acquired property to his children only by reducing himself to beggary.

If this is not done, his wife and children may at his death be turned out of doors to starve.

484. At present, he can only convey to them this property by stripping himself of it, and making it over to them in free gift during his own life-time. This, of course, he is very reluctant to do for many and obvious reasons, but if it is not done, his wife and children have no legal claims on it at his death. It, then, all passes to the families of his female relations constituting his *Taravād*, and his wife and children may be turned out of their own husband and father's house to starve.

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* No. 1145.

† *See* Indian Law Reports, Madras Series, Volume III, page 212; also Madras High Court Reports VI, pages 401 to 415.

(a) Disposal of self-acquired Property by Will.

All adults should have the power of regulating succession to their self-acquired property by will.

485. The first and most obviously necessary change is to confer on all adults, male or female, the power to regulate by will the succession to their *self-acquired* property. All the best informed and most intelligent of the natives are strongly in favor of this being done, and I believe if the subject were to be mooted, the consensus of opinion regarding it would be found to be almost unanimous.

The false position in which a *Nāyar* is at present placed.

486. A *Nāyar* has at present hardly any motive to exert himself, because the fruits of his labors, unless he chooses to strip himself thereof during his own life-time, pass to persons with whom he has but little sympathy. He is in a thoroughly false position, for, if he obeys his natural instincts and gives away his property during his life-time to his wife and children, he becomes a beggar, and is taken to task by his legal heirs. Whereas, if he fails to strip himself of his goods for the benefit of his children, he incurs the displeasure of his own household. This false position is fatal to individual industry and thrift, and if the law is not soon changed the consequences to the ruling caste will be disastrous.

Fatal to individual industry and thrift.

(b) A Man's Children should get one-third of his separate Estate if he dies Intestate.

Even when no will has been executed, a portion of the self-acquired property should descend to a man's children.

487. Another point on which some of the most intelligent persons insist is, that even when the father has not executed a will, a certain portion of his self-acquired property should descend to his children. This proposal has this much in its favor that it is already in force among a certain class of *Nāyars* in Travancore, who are known as the ~~*Nyāngarātt*~~ *Pillamār*. As regards this suggestion, I am not so confident that opinion would be so unanimous in regard to it for the question of marriage comes in, but it has much to recommend it.

These points, but more especially (*a*) should receive legislative recognition.

488. These points (*a*) and (*b*) should, in the opinion of many persons, receive legislative recognition, and I am quite convinced that this measure in regard to the first of them (*a*) would be hailed almost unanimously as a great boon to the people, and would conduce largely to the prosperity and advancement of the most influential and most intelligent class of the community in Malabar.

Proposals in regard to Mosques and Burial-grounds.

Specially referred to in instructions.

489. This is a matter which was specially referred to in my instructions (*see* para. 1 of this report), and much has already been said about it in Chapter VII, paras. 290 to 302.

Class dissensions will never be allayed till means are found for preventing one class from tyrannising over another in these matters.

490. However much the tenures of the small agriculturists may be improved by the suggested legislation, it is obvious that the virulent class dissensions between Hindus and Muhammadans will never be allayed so long as the latter are prevented by the former from the free exercise of their religious duties, and are put to great inconvenience to provide decent burial for their dead.

The best course would be for the people themselves to arrange their difficulties, but this is hopeless at present.

491. It would, of course, be much the best solution of the difficulty if the two classes could adjust their disputes without Government interference, but I see no hope of this being attained in the present constitution of society. In time, of course, as education spreads, people of different religious persuasions will meet on some common ground of sympathy and be able to adjust their differences. At present, however, the only method in which they can be brought to meet on equal terms is by an appeal to the ruling power as arbiter.

Mr. Strange's proposals for dealing with the question.

492. This subject was one of those regarding which Mr. Strange (the Special Commissioner in 1852) made proposals to Government, and his views will be found set forth in paras. 444-445 and again in paras. 462—464 of his report published in the first volume of

correspondence relating to the *Māppilla* outrages. They were briefly as follows:—Mosques had increased largely in numbers between the years 1831 and 1851. While the *Māppilla* population * had increased by less than half, the number of mosques † had increased by just two-thirds. Mr. Strange observed: "There was no natural liability for the increase of the mosques to advance in the same ratio with that of the population, as public buildings are not so measured off as to their accommodation as to require that they should keep even pace in number in correspondence with the growth of the congregations." Holding this view he, therefore, proposed a penalty for erecting one anywhere without the sanction of the Magistrate or eventually of the Court; but he did not propose to take up land for a mosque even when the necessity for erecting one was clearly apparent.

The Government orders thereon.

493. The Government did not approve of Mr. Strange's proposal for the very obvious reasons that it would ally the Government with the Hindus and against the *Māppillas*, and would, therefore, break the neutrality in matters of religion hitherto followed, and would embitter the already hostile feelings of Hindu and *Māppilla*; and the Government was of opinion that mosques erected on land in dispute should be dealt with "as in the case of all other buildings erected illegally on the land of others" under "the Regulations in force." (*Māppilla* Outrages, Vol. I, page 523), and these views were endorsed by the Honorable the Court of Directors (para. 12 of Judicial Despatch No. 1 of 1854, dated 4th January 1854).

The Collector, Mr. Conolly's views.

Mr. Conolly was not always successful in his attempts to carry out his own views.

494. Mr. Conolly's views were thus expressed: he "hoped that the personal representations of the European local authorities would be found sufficient to induce the landlords to listen to reason without the necessity of any extraordinary interference on the part of Government" (*Māppilla* Outrages, Vol. II, page 27); but these same volumes contain conclusive proof that Mr. Conolly's own attempts to act upon the views he held proved futile in one instance at least in which he seems to have tried this method of dealing with them (*Māppilla* Outrages, Vol. I, pages 377 to 389, and Vol. II, pages 1 to 6), and the Kolattūr mosque dispute smouldered on (so to speak) till 1873, when the fire again broke out. It has only recently been settled by the landlord giving up the rights for which he has been all along contending.

Mr. Conolly's plan a good one if the people have not proceeded to extremities.

495. I do not at all underestimate the principle on which Mr. Conolly proposed to deal with these cases; and I think that where the parties have not proceeded to extremities a way will usually be found for adjusting their disputes.

But it does not provide for all the cases that arise.

496. But this mode of dealing with them does not take in all the cases that arise; it is only applicable *with equity* to cases in which the *Māppillas* require a site for a mosque and burial-ground, and cannot obtain it in a legal way from the landlord. It cannot, on the other hand, be equitably applied in a case such as I have described in para. 297 above, where the *Māppillas* to gain their end have erected the mosque by stealth, and have defied, *under penalty of death*, any one to touch it. In such cases the landlord *must* give way, because even if he obtains a decree of Court to have the mosque pulled down (as in Case No. 8 cited in para. 293), *his decree cannot be executed without imminent risk of bloodshed.*

I agree so far with Mr. Strange, that I would prohibit the erection of mosques or the usage for public worship of buildings not already in use.

497. I therefore agree so far with Mr. Strange that I would prohibit under the severest penalties the erection in future without official sanction of a mosque for public worship even on a site about which there was no dispute, and the penalties to be effectual in all cases should be further prohibitive of the use without official sanction in future for the public worship of Muhammadans of any building not already publicly used for the purpose.

	* *Māppilla Population.*
1831	269,624
1851	382,330

	† *Mosques.*
1831	637
1851	1,058

The penalties should be as severe as in the case of an outrage.

498. The penalties should be as severe, in my opinion, as those now imposed on *Māppilla* abettors in the case of a murderous outrage by *Māppillas*, and the people of the locality should be made answerable, one and all, for the good conduct of all members of their community, for it is to be recollected that *they themselves have decreed death* against any one who, even while acting under judicial sanction on his rights, pulls down a mosque.

Proposal to add two additional sections to the *Māppilla Outrages Act*.

499. I therefore propose that the following additional sections should be added to the *Māppilla* Outrages Act (No. XX of 1859):—

"Section 13. Within the limits to which this Act may be extended under Section 2 no mosque shall be erected, and no building not already publicly in use for the purpose shall be used, for the public religious worship of the Muhammadan community, except with the written sanction previously obtained of the Magistrate of the District.

"Section 14. Any person who erects a mosque, or who uses a building, for the public religious worship of the Muhammadan community in contravention of the provisions of the last preceding section shall be liable to be dealt with under Sections 6, 7, and 8, as having committed an offence punishable under this Act, and the *Māppilla* residents within the *Amsam* where the mosque is erected, or the building used in contravention of the provisions of the last preceding section, shall be liable to be dealt with under Section 9 as if an outrage, punishable under the Act, had been committed in the *Amsam* where the mosque is so erected, or the building so used."

Reasonable facilities should simultaneously be afforded to *all* classes of the community for obtaining sites for religious edifices or for burial-grounds.

500. While, however, imposing these necessary restrictions on the *Māppilla* community, I would, at the same time, suggest that reasonable facilities should be afforded to them and to *all* classes of the community (*see* Chapter VII, para. 303) to obtain sites for religious edifices and for burial-grounds.

Every citizen has a right to have a place of interment provided for himself in the soil of the State to which he belongs.

501. The objection as I understand it in the way of this being done at present is that sites required for the religious edifices of any one particular caste or class cannot be viewed as land "needed for a public purpose" under Section 6 of the Land Acquisition Act X of 1870. There may be some plausible argument in support of this contention, though I have not yet come across it, but, on the other hand, I conceive that there is inherent in every single citizen, however mean and humble his station may be, a right to have a place of interment provided for him in the soil of the State; and I conceive that land required to provide such places of interment is, in the strictest sense, land "needed for a public purpose."

At any rate, there is an absolute necessity to provide for the matter in Malabar.

Proposal to legislate if necessary.

502. But, however this may be, it is clear that in any case there is an absolute necessity in Malabar to provide specially for it, and to make the matter plain I would suggest that it should be authoritatively declared, by legislation if necessary, that land required either for the religious edifices or for the burial-grounds of any class of the community is land "needed for a public purpose" under Section 6, Act X of 1870.

But is legislation required?

503. I hardly think, however, that legislation will be required on this point, because the Act nowhere defines what "a public purpose" is, and the matter seems to have been left by Section 6 purposely indefinite, in order that Government may have a certain discretion in the matter. As matter of fact, the European burial-ground at Calicut was taken up under the Act, and I do not think there is any difference between that case and the case of other classes of the community.

What is to be done about the sites illegally taken up for mosques and burial-grounds?

504. The next point for consideration is, what is to be done in the case of those mosques for which sites have already been *illegally* taken up by the Muhammadan community. There are, as already said (Chapter VII, para. 296), at least four instances in point, and in one instance (No. 8) a decree of Court has been obtained to have the site cleared and restored to its owner.

The owners of these sites must refrain from insisting on their rights, but the sites should be taken up permanently.

505. My view in regard to these cases is that the law has hitherto been insufficient for the protection of the owners of land, and that that fact must be accepted by the owners as a sufficient ground for refraining from insisting on their rights, but, as soon as the Government sees its way to the taking up, under Act X of 1870, of land for sites for religious edifices and burial-grounds, I would propose that the Collector and

Magistrate of the District should at once move in the matter and take up the several pieces of land *permanently* for the purposes for which they are now used.

506. The last remaining * point is the payment of compensation for land so taken up. As soon as the two proposed additional sections are added to the Outrages Act, the matter will be simple enough, for, of course, the Collector and Magistrate will not move finally in any case in future until the compensation settled for the site proposed to be taken up is paid into the public treasury by those concerned. But as regards the sites for mosques and burial-grounds already in use, although I am extremely loath to condone the spirit of bravado in which these sites have been taken, I cannot, at the same time, shut my eyes to the fact that there was failure on the part of Government to provide for the legitimate wants in these respects of a numerous class of citizens. Moreover, the difficulty felt in respect to them is not likely again to recur if the law is amended as I suggest, and therefore legislation, if resorted to, would be directed towards the settlement of the compensation in these contested cases *only*, and this is, of course, objectionable. I think that those who use the sites should be made to pay for them, and this, I have but little doubt, can be effected in all the cases; but if a difficulty in this direction springs up, though I do not anticipate it, then I think the Government should arrange to pay for the sites out of the public purse.

The compensation to be paid.

In future, this will be simple enough if my proposals are sanctioned.

And as regards the sites already illegally taken up for mosques and burial-grounds, if the matter cannot be otherwise arranged the Government should pay for them.

Conclusion.

507. In the treatment of the proposals and suggestions made above, I have attempted to be as precise in my language as possible, but I did not consider it necessary at this stage to embody my proposals in the legislative form of a Draft Bill, mainly because I felt that such an attempt would be premature. Many of the questions discussed are new, to this Presidency at least, and as I had not the benefit of previous discussions to aid me, I considered that any attempt to embody my suggestions in a more definite form at this stage would be waste of time.

Reasons for not submitting my proposals in the form of a Draft Bill.

508. A slight departure from this course will be found in para. 499 of this Chapter where I have drafted two additional sections to be embodied in the *Māppilla* Outrages Act of 1859; but this was in regard to a separate matter which has been frequently under discussion, and regarding which my opinion had long ago been matured.

Slight departure from this course in regard to mosques.

509. I cannot say the same of the proposals regarding the suggested statutory tenure for small holders, for the subject is an exceedingly difficult, most intricate, and withal most important one affecting, as it necessarily will do, the whole industry of an agricultural community. My present position is, first, in regard to the conclusions stated in para. 353 that they are soundly based both on the evidence recorded and on general principles of public policy; and, secondly, that the detailed proposals founded upon them (para. 354) are the best I can at present suggest for attaining the ends in view. It would, however, be rash to assume that these latter contain the best possible solution of the numerous difficulties that present themselves, for I have not had the benefit and aid which, in a discussion of a question of this kind, results from the friction (so to speak) of many minds.

My present position in regard to the conclusions in para. 353, and the detailed proposals in para. 354.

510. At the same time, I believe the main principle which underlies the proposals contained in para. 354, and which I have referred to frequently in the discussion of details, is a sound one, and one that is likely to be more and more extensively applied in the solution of Land Questions at home and abroad. I have not consciously departed from it in framing the detailed proposals referred to.

But I believe the main principle kept in view in para. 354 is a sound one.

* In making this and the preceding proposals, I have not overlooked the fact that some correspondence took place on this subject after the Kolattūr outrage (September 1873). It will be found that my proposals are mainly in accordance with the views of the officers (myself among the number) who were consulted at that time. The records in the Collector's Office do not show how the matter was finally disposed of.

511. It is, so far as I know, a novel principle to apply; but I am convinced that public opinion is steadily progressing in the direction indicated. Happily I think, for Malabar, the ancient customs of the country will admit of its being engrafted on the prevailing law with every prospect of a harmonious union. This is, to my thinking, a most important point in its favor, for the commonest of the people are already familiar with the idea of buying and selling mortgages and other more intricate rights in land, and the suggestion of buying the permanent agricultural occupancy right in their holdings will present itself to them as not only a feasible thing but almost as a thing with which they have been familiar all their lives.

It is perhaps a novel principle to apply, but the commonest of the people in Malabar will have no difficulty in understanding and applying it.

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